

Andrea Gyger

From: Marilyn Marks [REDACTED]
Sent: Friday, February 10, 2012 12:26 PM
To: Andrea Gyger; Judd Choate; Michael Hagihara; Richard Coolidge
Cc: [REDACTED]
[REDACTED]
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Subject: informal comments on Rule 43 proposed changes
Attachments: 20120209_Elections_RevisedDraftRules.pdf - Adobe Acrobat.pdf

Ms. Gyger,

Please see my very informally presented comments on Rule 43 revisions attached.

I have overarching concerns which I wish to address in this email, and which are included as in a lead in note on the attached pdf.

In general, I feel that the draft is premature and merits a considerable amount of additional work.

As I stated at the December meeting, voting system rules should be subjected to the "Saguache litmus test," i.e., --would this change have helped or hurt the non-compliance issues in the 2010 Saguache election? In the case of most proposed changes, my detailed knowledge of the problems of that election causes me to conclude that most of the changes would not have helped at all, and in some cases, made the situation worse.

In that regard I challenge the department to take the time to reconsider this Rule and enhance, not dilute, the security requirements of voting system operation.

1. The rule references Conditions for Use, which I understand are not the subject of this rule-making hearing. If any changes to those Conditions are under consideration by the Secretary of State, there should be a formal public process to provide input well in advance of any changes being made. Conditions for Use are the core security regulations for each of the certified systems and should never be changed in any significant way without the input of the public, with full transparency of an appropriate public process.
2. As I commented in advance of the December public meeting on this proposed rule, numerous of the proposed changes dilute rather than strengthen voting system security and reporting requirements at a time that it is generally understood that technology security becomes more vulnerable every day. The election system is no different. Please reconsider the relaxation of security standards.
3. The attached draft should have the input of a number of experienced independent canvass board members and election judges, not merely the clerks. Experienced canvass board members and judges will have meaningful input on the weaknesses in the proposals as it relates to responsibility for reporting concerns, and handling of voting equipment and ballots.
4. The present proposals invite the minimizing of concerns about security, as responsibility for reporting and investigating lies only with the clerk, who would be investigating irregularities occurring under her own watch. This involves inadequate checks and balances. If there are non-compliant security conditions, the clerk should not be the sole judge and investigator. The canvass board and county attorney should be notified. The definitions of "evidence of tampering," "tampering" and "breaches" should be more narrowly defined to encourage reporting of questionable conditions rather than the

evaluation of assumed intent. In the current draft requirements, many clerks would opt to conclude that any non-compliant conditions were probably accidental or unknown origin and did not constitute security incidents. Timely reporting should be required to the county attorney and the canvass board with clearly defined criteria for identifying security irregularities.

Please see the attached informal annotated comments on the pdf for the specifics.

Thank you for this opportunity to comment.

Marilyn Marks

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Revised Draft of Proposed Rules

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

February 9, 2012

Disclaimer:

The proposed draft rules have changed. This draft supersedes the Preliminary Draft that was issued with the Notice of Proposed Rulemaking on January 13, 2012. These revised proposed rules will be considered at the February 14, 2012 rulemaking hearing.

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

Proposed additions to the current rules are reflected in SMALL CAPS.

Proposed deletions from current rules are shown in ~~stricken type~~.

Shading indicates revisions from the previous draft.

Annotations may be included.

1 Rule 12.4 would be amended as follows:

2 12.4 Mail Ballot Plans

3 12.4.1 Coordinated and non-partisan elections.

4 (a) Written plan. As soon as possible, but no later than 55 days prior to any other
5 election, not including a Primary Election, a written plan must be submitted to the
6 Secretary of State which includes the following:

7 (8) The address and hours of operation for all drop-off locations. ~~For security~~
8 ~~reasons, unmonitored freestanding drop off locations located outside will~~
9 ~~not be allowed;~~

10 New Rule 12.10.4 would be adopted as follows:

rule 43 video surveillance standards
are inadequate. see below

11 12.10.4 MONITORING DROP-OFF LOCATIONS. ALL DROP-OFF LOCATIONS MUST BE MONITORED
12 BY AN ELECTION JUDGE OR VIDEO SECURITY SURVEILLANCE RECORDING SYSTEM, AS
13 DEFINED IN RULE 43.

14 (A) FREESTANDING DROP-OFF LOCATIONS MUST BE MONITORED AT ALL TIMES BY AN
15 ELECTION JUDGE.

16 (B) IF THE DROP-OFF LOCATION UTILIZES A DROP-SLOT INTO A BUILDING, THE

¹ Section 24-4-103(4)(a), C.R.S. (2011). “[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 and the polling place judge shall initial all copies of the transfer
2 logs.

3 ~~27.8.3.2.2~~ In full view of the polling place judge, the transfer judges shall
4 secure the transfer log that is to remain with transfer case. The
5 transfer judges shall secure the transfer case in accordance with
6 section 1-7-307 (3), C.R.S. The seal number of the seal to be used
7 shall be noted on the transfer logs prior to sealing the transfer case.

8 ~~27.8.3.2.3~~ At the close of the polls, the duplicate copies of the polling place
9 transfer log(s) shall be mailed at the nearest post office or post-
10 office box by a polling place judge to the designated election
11 official.

12 ~~27.8.3.2.4~~ Pursuant to section 1-7-108 (3), C.R.S., duly appointed watchers
13 may observe all aspects of the process described in this Rule 27.8.

14 ~~27.8.4~~ Procedures to be Followed During Transport

15 ~~27.8.4.1~~ During ballot transport, the sealed ballot transfer case shall be within the
16 close physical proximity of the bipartisan team of transfer judges at all times.

17 ~~27.8.4.2~~ Delivery of the sealed ballot transfer case to the counting location shall be
18 made at once and with all convenient speed. However, nothing in this Rule
19 ~~27.8.4.2~~ shall be interpreted to prohibit transfer judges from stopping at
20 multiple polling places before arriving at the counting location.

21 ~~27.8.5~~ Procedures to be Followed at the Counting Location

22 ~~27.8.5.1~~ Upon arrival at the counting location, the bipartisan team of transfer judges
23 shall deliver the sealed ballot transfer case to the designated election official
24 or counting judges.

25 ~~27.8.5.2~~ The designated election official or counting judges shall take possession of
26 the transferred ballots by noting the delivery date and time and verifying the
27 seal numbers on the transfer log.

28 *(Current Rule 27.8 would be relocated to Rule 43.2.7(d) for clarity)*

29 Rule 43 would be amended as follows:

30 **Rule 43. County Security Procedures**

31 43.1 Definitions

32 43.1.1 ~~“Chain of custody-CHAIN-OF-CUSTODY log” shall, for the purposes of this rule means~~ a
33 written record that shows that the equipment and all associated data are secured
34 according to these procedures and in the documented control of an employee or deputized
35 election judge through the entire time of ownership by the jurisdiction.

Area should be lighted 24/7.
Saguache experience demonstrates.

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13
1 frame per minute is inadequate standard. Needs to be continuous or far faster frame capture. Saguache experience proves this.

1.2 ~~“Continuous video VIDEO security surveillance recording” shall, for the purposes of this rule, means video monitoring by a device which THAT continuously records a designated location. Alternatively, A DIGITAL RECORDING SYSTEM WITH MOTION DETECTION MEETS THIS DEFINITION IF IT CAN BE PROGRAMMED TO RECORD AT A RATE OF ONE FRAME PER MINUTE OR MORE WHEN MOTION DETECTION IS USED TO TRIGGER CONTINUOUS RECORDING. this definition may be met by the use of a “non continuous” recording, provided that a device is used which samples the functionality of the video recorder without interruption, evaluates the detector response at least once every 15 seconds, and computes and records the average value at least every 60 seconds, except during allowable periods of calibration.~~

1.3 “DRE” means a direct recording electronic voting device. A DRE is a voting device that records votes by means of a ballot display provided with mechanical or electro-optical components or an audio ballot that can be activated by the voter; that processes data by means of a computer program; and that records voting data and ballot images in memory components or other media. The device may produce a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from remote sites to the central location.

43.1.4 “Employee” ~~shall, for the purposes of this rule,~~ means all full-time, part-time, permanent, and contract employees of the county who have had a criminal history check conducted in accordance with Rule 11.2 and are deputized by the county clerk and recorder to prepare or maintain the voting system or election setup materials, staff the counting center and who have any access to the electromechanical voting systems or electronic vote tabulating equipment.

43.1.5 “Removable card or cartridge” ~~shall, for the purposes of this rule,~~ means all ANY programming cards or cartridges, except A voter activation cards, that stores firmware, software, or data.

43.1.6 “SEAL” MEANS A SERIAL-NUMBERED TAMPER-EVIDENT DEVICE THAT INDICATES WHEN IT HAS BEEN BROKEN OR REMOVED.

43.1.67 “Trusted Build” means the write-once installation disk or disks for software and firmware for which the Secretary of State or his/her agent has established the chain of evidence to the building of a disk, which is then used to establish and/or re-establish the chain of custody of any component of the voting system which 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.

~~Pursuant to section 1-5-616(5), C.R.S., each county shall file with the Secretary of State a security plan that meets or exceeds the standards set forth in this rule. The plan filed with the Secretary of State in accordance with this rule shall provide a point by point detailed response with a proposed solution to each of the requirements set forth in this rule. ANNUAL SECURITY PLAN. IN ACCORDANCE WITH SECTION 1-5-616(5), C.R.S., EACH COUNTY MUST SUBMIT A SECURITY PLAN TO THE SECRETARY OF STATE ANNUALLY AND NO LATER THAN 60 DAYS PRIOR TO THE FIRST ELECTION IN WHICH THE SECURITY PLAN PROCEDURES WILL BE USED. THE PLAN MUST, AT A MINIMUM, INCLUDE THE FOLLOWING:~~

rule 43 should require SOS to verify county software license before sending trusted build. SOS sent Saguache trusted build despite lack of valid license by Saguache.

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1 ~~43.3 The county shall file security procedures annually no later than sixty (60) days prior to the first~~
2 ~~election in which the procedures will be used.~~

3 ~~43.4 If no changes have occurred since the last security procedures filed, the county shall file a~~
4 ~~statement to that effect.~~

5 ~~43.5 Revisions to previously filed security procedures shall clearly state which part of the procedures~~
6 ~~previously filed have been revised.~~

7 ~~43.6 Each designated election official county may change the security procedures within sixty (60)~~
8 ~~days of an election as a result of an emergency situation or other unforeseen circumstance, and~~
9 ~~document any changes. The county designated election official shall file any revisions with the~~
10 ~~Secretary of State within five (5) days of the change.~~

11 ~~43.7 If, pursuant to section 1-5-616(5)(b), C.R.S., the Secretary of State is unable to complete its~~
12 ~~review, the procedures or revisions shall be temporarily approved until such time as the review is~~
13 ~~completed. The Secretary of State shall notify the county of temporary approval.~~

14 *(Current rules 43.3-43.7 would be amended and relocated as rule 43.4)*

15 ~~43.8 Security Procedures shall at a minimum include, if applicable:~~

16 ~~43.8.143.2.1 General Requirements:~~

**memory cards and all
electronic data must be
maintained for 25
months.**

~~At all times removable memory cards and cartridges shall be handled in a secure manner
as follows. When not sealed in voting machines, all removable cards and cartridges shall
be transferred and stored in secure containers with at least one tamper evident seal with
printed serial numbers. The integrity and serial number of each seal shall be verified by
election judges or county personnel at shipping and receiving locations.~~

22 ~~(A) All THE COUNTY CLERK AND RECORDER SHALL MAINTAIN ON FILE ALL~~
23 ~~documentation of seals, chain of custody, and other documents related to the~~
24 ~~transfer of equipment between parties shall be maintained on file by the county~~
25 ~~clerk and recorder and is THESE DOCUMENTS ARE subject to inspection by the~~
26 ~~Secretary of State.~~

27 ~~(B) The chain of custody for each voting device must be maintained and documented~~
28 ~~throughout ownership or leasing of the device by the county clerk and recorder.~~

~~(C) Only deputized clerks, election judges, or canvass board members sworn under
oath are allowed to handle ballots, which include V-VPAT records.~~

~~(D) No additional ADDITIONAL or modified software developed by the Vendor MAY
that is not specifically listed on the Secretary of State's certificate and verified
against the state trusted build shall be installed on any component of the voting
system ONLY IF THE SOFTWARE IS SPECIFICALLY LISTED ON THE SECRETARY OF
STATE'S CERTIFICATE AND VERIFIED AGAINST THE STATE TRUSTED BUILD.
Nothing in this rule shall preclude the use of commercial off the shelf software
COMMERCIAL OFF-THE-SHELF SOFTWARE, provided that the COTS software is
included in the certified list of services and executables for the certified voting
systems.~~

**why this restriction?
consider allowing
counties to make own
security rules on
handling ballots.**

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1 (E)f. Any form or log containing “date” means to note the month, calendar day, year,
2 hour, minute, and whether the time is a.m. or p.m.

define verify

3.2.2 Physical Locking Mechanisms and Seals. THE COUNTY MUST RECORD THE
3 SERIAL NUMBER OF EVERY SEAL ON THE APPROPRIATE CHAIN-OF-CUSTODY LOG. TWO
4 INDIVIDUALS MUST VERIFY THE SERIAL NUMBER AND SIGN THE LOG. IF A SEAL IS
5 INACCESSIBLE AND CANNOT BE REMOVED, THEN IT IS NOT NECESSARY TO VERIFY THAT
6 SEAL SERIAL NUMBER.
7

8 (A)a. DREs. All DRE voting devices shall ~~have industry standard, commercial off the~~
9 ~~shelf tamper evident seals with printed, unique serial numbers affixed as follows~~
10 BE SEALED TO MEET THE FOLLOWING REQUIREMENTS:

11 (1)i. A seal shall be placed over any removable card or cartridge that is
12 inserted into the unit, or over the slot or door covering the card or
13 cartridge.

14 (2)ii. A seal is to be placed over any removable card SLOT or cartridge slot
15 when no card or cartridge is inserted into the unit.

16 (3)iii. ~~Tamper evident, numbered seals shall be affixed across the seam at~~
17 ~~which the two sides of the case of the electronic components of the~~
18 ~~voting unit join, with at least one seal for each of the four sides of the~~
19 ~~device; except in the instances where the hash value (MD5 or SHA 1) of~~
20 ~~the firmware or software can be displayed or printed by the device as~~
21 ~~verified by the State Certification process. In such cases, additional seals~~
22 ~~for the case are not required. Officials shall produce documentation of~~
23 ~~the verification of the hash value during Hardware Diagnostics Testing,~~
24 ~~Pre Election testing and prior to the Post Election Audit as required in~~
25 ~~Rule 11~~ IF THE FIRMWARE OR SOFTWARE HASH VALUE (MD5 OR SHA-1)
26 CANNOT BE VERIFIED, THE COUNTY MUST SEAL THE DRE CASE WITH A
27 SEAL THAT ENSURES THE INTEGRITY OF THE ELECTRONIC COMPONENTS
28 CONTAINED INSIDE. SEALS SHALL BE USED AT EITHER THE SEAMS OF THE
29 CASE OR AT KEY ENTRY POINTS SUCH AS SCREW ACCESS POINTS.

define "ensures the integrity"--or change terminology to mean security.

30 (4)iv. If the voting device contains one or more slots for a flash memory card,
31 THE COUNTY SHALL AFFIX a seal ~~shall be affixed~~ over each flash card or
32 each flash card slot, door, or access panel.

33 (5)v. These same procedures also apply to the Judge’s Booth Controller (JBC)
34 unit for the Hart InterCivic System.

35 (6)vi. ~~All seals are to be verified by two~~TWO employees or election judges
36 MUST VERIFY ALL SEALS.

how is privacy protected by locks/seals? Who can have access after the production of the VVPAT?

(B)b. V-VPATs. ~~all~~ALL V-VPAT units shall be sealed upon verification of no votes
having been cast on the paper record prior to being attached to a specific voting
device. Seals must be verified as being intact by at least two election judges prior
to the start of voting, and at the close of voting. V-VPAT records shall either
remain in the V-VPAT canister, or be sealed and secured in a suitable device for
protecting privacy or as described in ~~Election~~ Rule 11.

1 (C)e. Remote or Central-count Optical Scanners. Optical scanners used in a remote or
2 central tabulating location shall ~~have tamper-evident seals as follows~~ MEET THE
3 FOLLOWING SEAL REQUIREMENTS:

4 (1)i. A seal ~~is to~~ MUST be placed over each card or cartridge inserted into the
5 unit, or over any door or slot containing the card or cartridge.

6 (2)ii. A seal ~~is to~~ MUST be placed over each empty card or cartridge slot or
7 door covering the area where the card or cartridge is inserted.

8 (3)iii. Prior to the start of voting and after the close of voting, TWO EMPLOYEES
9 OR ELECTION JUDGES MUST VERIFY THAT all seals are ~~to be verified as~~
10 ~~being intact by two employees or election judges.~~

11 (D)d. Memory Cards/Cartridges. ~~Each removable card or cartridge shall have a~~
12 ~~permanent serial number assigned and securely affixed to it. The manufacturer~~
13 ~~assigned serial number may be utilized for this purpose.~~

14 e. ~~The county clerk and recorder shall maintain a written or electronic log that~~
15 ~~records which card or cartridge and which seal is assigned to each voting unit.~~
16 ~~The Any breach of control over a card/cartridge or door or slot for a~~
17 ~~card/cartridge before an election shall require that the county clerk and recorder~~
18 ~~be notified and follow the procedures specific to the incident as described in~~
19 ~~section 43.8.11 of this Rule.~~

memory cards to be
retained for 25 months.

23 (1) THE COUNTY MUST ASSIGN AND SECURELY AFFIX A PERMANENT SERIAL
NUMBER TO EACH REMOVABLE CARD OR CARTRIDGE. THE
MANUFACTURER ASSIGNED SERIAL NUMBER MAY BE USED FOR THIS
PURPOSE.

24 (2) THE COUNTY MUST HANDLE REMOVABLE MEMORY CARDS AND
25 CARTRIDGES IN A SECURE MANNER AT ALL TIMES. ANY REMOVABLE
26 CARD AND/OR CARTRIDGE THAT IS NOT SEALED IN A VOTING MACHINE
27 MUST BE TRANSFERRED AND STORED IN A SECURE CONTAINER WITH AT
28 LEAST ONE SEAL. THE SERIAL NUMBER OF EACH SEAL SHALL BE
29 VERIFIED BY ELECTION JUDGES OR COUNTY PERSONNEL IN THE CHAIN-
30 OF-CUSTODY LOGS UPON DELIVERY AND RECEIPT.

notification should also
include canvass board
and county attorney.

37 (3) THE COUNTY CLERK AND RECORDER MUST MAINTAIN A WRITTEN OR
ELECTRONIC LOG TO RECORD CARD OR CARTRIDGE SEAL SERIAL
NUMBERS AND TRACK SEALS FOR EACH VOTING UNIT. THE COUNTY
CLERK AND RECORDER MUST BE NOTIFIED IF CONTROL OF A
CARD/CARTRIDGE OR DOOR OR SLOT FOR A CARD/CARTRIDGE IS
BREACHED BEFORE AN ELECTION, AND HE/SHE MUST FOLLOW THE
PROCEDURES SPECIFIC TO THE INCIDENT OUTLINED IN RULE 43.2.11.

38 ~~43.8.34.3.2.3~~ 43.2.3 Individuals With Access to Keys, Door Codes, and Vault Combinations

39 (A) ~~43.8.3.1~~ 43.2.3(c) FOR EMPLOYEES WITH ACCESS TO AREAS ADDRESSED IN RULE 43.2.3(C),
40 THE COUNTY MUST ~~Counties are required to~~ state the EMPLOYEES' TITLES

1 ~~positions and THE dates of CBI background check CHECKS. for employees with~~
2 ~~access to the areas addressed in this Rule 43.8.3.~~

3 (B) ~~43.8.3.2~~ For all counties, THE COUNTY MUST CHANGE ALL use of keypad door
4 codes or locks, vault combinations, computer and server passwords, encryption
5 key codes, and administrator passwords ~~shall be changed~~ at least once per
6 calendar year prior to the first election of the year.

7 (C) EMPLOYEE ACCESS

8 (1) THE COUNTY MAY GRANT EMPLOYEES ACCESS ~~Only employees may be~~
9 ~~given access to such~~ THE codes, combinations, passwords, and encryption
10 keys DESCRIBED IN THIS RULE 43.2.3, ~~pursuant to~~ IN ACCORDANCE WITH
11 the following limitations: ~~Counties may request a variance from the~~
12 ~~Secretary of State for the requirements set forth in this Rule 43.8.3 only~~
13 ~~in extreme circumstances.~~

14 ~~43.8.3.3~~ The requirements for an employee to be given access to a code, combination,
15 ~~password, or encryption key are as follows:~~

16 (A) ~~a.~~ Access to the code, combination, password, or encryption key
17 for the storage area for voting equipment and the mail-in ballot
18 counting areas ~~shall be~~ IS restricted to employees as defined in
19 43.1.4.

20 (B) ~~b.~~ Access to the code, combination, password, or encryption key
21 for the mail-in ballot storage area and counting room or
22 tabulation workstations ~~shall be~~ IS restricted to ten (10)
23 employees as defined in 43.1.4.

how does this address
judges and watchers and
media?

24 (C) ~~c.~~ Except for emergency personnel, no other individuals shall be
25 present in these locations unless supervised by one or more
26 employees as defined in Rule 43.1.4.

27 (I) ~~i.~~ Each individual who has access to the central election
28 management system or central tabulator shall have their
29 own unique username and password. No individual shall
30 use any other individual's username or password. Shared
31 accounts ~~shall be~~ ARE prohibited.

32 (II) ~~ii.~~ The county shall maintain a log of each person who
33 enters the ballot storage room, including the person's
34 name, signature, and date and time of entry. If access to
35 the ballot storage room is controlled by use of key card
36 or similar door access system that is capable of
37 producing a printed paper log including the person's
38 name and date and time of entry, such a log shall meet
39 the requirements of this rule.

1 (2) IN EXTREME CIRCUMSTANCE, THE COUNTY MAY REQUEST AND THE
2 SECRETARY OF STATE MAY GRANT EXEMPTION FROM THE
3 REQUIREMENTS OUTLINED IN RULE 43.2.3(C)(1).

how does this allow the rights of watchers and observers?

43.8.3.4 Computer room access shall be limited to employees and election judges only, and the delivery of ballots between the preparation room and computer room shall be performed by messengers or runners wearing distinguishing identification.

8 43.8.4.2.4 Temperature-controlled Storage.

9 43.8.4.1 Counties—THE COUNTY MUST MAINTAIN ALL COMPONENTS OF THE VOTING
10 SYSTEM AND BALLOTS IN A TEMPERATURE-CONTROLLED ENVIRONMENT. THE
11 COUNTY shall attest to the temperature-control settings used with the following
12 components of a voting system. Information submitted to the Secretary of State
13 shall indicate the specifics for each type of component, as well as the specific
14 environment used, which may include, but is not limited to controlled offices,
15 controlled vaults, and controlled warehouses. The settings for temperature
16 control must be at least the following:

17 (A)a. Servers and Workstations. ~~Servers and workstations shall be maintained in a~~
18 ~~temperature-controlled environment.~~ THE COUNTY SHALL MAINTAIN THE
19 TEMPERATURE SETTING SO THAT THE MAXIMUM ~~Maximum~~ temperature shall at
20 no time exceeds 90 degrees ~~fahrenheit~~ FAHRENHEIT.

21 (B)b. DREs. ~~DREs shall be maintained in a temperature-controlled environment.~~ THE
22 COUNTY SHALL MAINTAIN THE ~~The~~ temperature settings shall be maintained at a
23 minimum of ~~60~~ 50 degrees ~~fahrenheit~~ FAHRENHEIT and a maximum of 90
24 degrees ~~fahrenheit~~ FAHRENHEIT.

maintain temperature--- regardless of settings.

25 (C)e. Optical Scanners. ~~Optical scanners shall be maintained in a temperature-~~
~~controlled environment.~~ THE COUNTY SHALL MAINTAIN THE temperature ~~settings~~
~~shall be maintained~~ at a minimum of 50 degrees ~~fahrenheit~~ FAHRENHEIT and a
maximum of 90 degrees ~~fahrenheit~~ FAHRENHEIT.

29 (D)e. V-VPAT Records. In addition to the requirements set forth in Rule 11, THE
30 COUNTY SHALL MAINTAIN THE ~~V-VPAT records shall be maintained in a~~
31 ~~temperature-controlled environment.~~ The temperature settings shall be
32 maintained at a minimum of 50 degrees ~~fahrenheit~~ FAHRENHEIT and a maximum
33 of ~~80~~ 90 degrees ~~fahrenheit~~ FAHRENHEIT. THE COUNTY SHALL MAINTAIN V-
34 VPAT records shall also be maintained in a dry environment, with storage at
35 least 4-FOUR inches above the finished floor, for a period of 25 months following
36 the election. The humidity of the environment shall not exceed 80% humidity for
37 a period of more than 24 hours. V-VPAT records shall be stored in a manner that
38 prevents exposure to light, except as necessary during recounts and audits.

39 (E)e. Paper Ballots. THE COUNTY SHALL MAINTAIN ~~P~~-Paper ballots shall be maintained
40 in a dry, humidity-controlled environment. The humidity of the environment
41 shall not exceed 80% humidity for a period of more than 24 hours. THE COUNTY
42 SHALL STORE ~~Additionally,~~ paper ballots shall be stored at least 4 inches above
43 the finished floor, for a period of ~~twenty-five (25)~~ 25 months following the election.

25 months following what date? election day or final certification/contest results, etc?

1 (F)f. Video Data Records. THE COUNTY SHALL MAINTAIN ~~V~~ video data records ~~shall~~
2 ~~be maintained~~ in a dry, temperature-controlled environment. The humidity of the
3 environment shall not exceed 80% humidity for a period of more than 24 hours.
4 THE COUNTY SHALL MAINTAIN ~~T~~ Temperature settings ~~shall be maintained~~ at a
5 minimum of ~~40-50~~ degrees ~~fahrenheit~~-FAHRENHEIT and a maximum of ~~80-90~~
6 degrees ~~fahrenheit~~-FAHRENHEIT. THE COUNTY SHALL ~~Additionally~~, STORE video
7 data records ~~shall be stored~~ at least 4 inches above the finished floor, for a period
8 of ~~twenty five (25)~~ months following the election.

9 43.8.543.2.5 Security Cameras or Other Surveillance

10 (A)43.8.5.1 Unless otherwise instructed, ~~continuous~~ THE COUNTY SHALL MAKE video
11 security surveillance recordings of specified areas ~~shall be made~~ beginning at
12 ~~sixty (60)~~ days prior to the election and continuing through at least ~~thirty~~
13 ~~(30)~~ days after the election, unless there is a recount or contest. THE RECORDING
14 SYSTEM SHALL ENSURE THAT RECORDS ARE NOT WRITTEN OVER WHEN THE
15 SYSTEM IS FULL. THE RECORDING SYSTEM SHALL PROVIDE A METHOD TO
16 TRANSFER THE VIDEO RECORDS TO A DIFFERENT RECORDING DEVICE OR TO
17 REPLACE THE RECORDING MEDIA. IF REPLACEABLE MEDIA IS USED THEN THE
18 COUNTY SHALL PROVIDE A PROCESS THAT ENSURES THAT THE MEDIA IS
19 REPLACED OFTEN ENOUGH TO PREVENT PERIODS WHEN RECORDING IS NOT
20 AVAILABLE. If a recount or contest occurs, the recording shall continue through
21 the conclusion of all such activity. The following are the specific minimum
22 requirements:

area must be lighted at all times.

23 (1)a. ~~Counties~~ IF THE COUNTY HAS 50,000 OR MORE REGISTERED VOTERS,
24 THEN THE COUNTY ~~over 50,000 registered voters~~ shall make ~~continuous~~
25 video security surveillance recordings of the following areas:

software is used in polling places. is this meant to include polling places?

26 (A)i. All areas in which election software is used, including but not
27 limited to programming, downloading memory cards, uploading
28 memory cards, tallying results, and results reporting.

29 (B)ii. All areas used for processing mail-in ballots, including but not
30 limited to areas used for Signature Verification, tabulation, or
storage of voted ballots beginning at least ~~thirty five (35)~~ days
prior to the election and continuing through at least ~~thirty (30)~~
days after the election, unless there is a recount or contest. If a
recount or contest occurs, the recording shall continue through
the conclusion of all such activity.

needs clarification. temporary work areas are sometimes used for ballot processing for week or so during elections. when is video required in those areas?

36 (C)iii. The storage area for all voting equipment.

37 (2)b. IF THE COUNTY HAS FEWER THAN ~~Counties~~ ~~under~~ 50,000 registered
38 voters THEN THE COUNTY shall make ~~continuous~~ video security
39 surveillance recordings of ~~the following areas~~:

does this mean polling places?

40 i. ~~All~~ ALL areas in which election software is used, including but
41 not limited to programming, downloading memory cards,
42 uploading memory cards, tallying results, and results reporting.

1 43.8.643.2.6 Equipment Maintenance Procedures.

2 43.8.6.1 In addition to the requirements for voting systems specified in Rule 11, the
3 COUNTY SHALL ADHERE TO THE following minimum standards ~~shall be adhered~~
4 to:

5 (A)a. THE COUNTY SHALL STORE A All equipment ~~shall be stored~~ throughout the year
6 with ~~serially numbered, tamper evident~~ seals over the memory card slots for each
7 device. The county shall maintain a log of the seals used for each device
8 consistent to the logs used for tracking Election Day seals.

log should include
the name/signature
of persons sending
the equipment to
vendor.

(B)b. For equipment being sent to the vendor for offsite repairs/replacements, the
county must maintain a log file for the device that shall contain the following: the
model number, serial number, and the type of device; the firmware version; the
software version (as applicable); date of submission to the vendor.

14 (C)c. For equipment receiving maintenance on-site by the vendor, the county shall
15 verify that a CBI background check has been conducted on all vendor personnel
16 with access to any component of the voting system. ~~THE COUNTY MUST UPDATE~~
17 AND MAINTAIN CBI information ~~shall be updated and maintained~~ on file
18 annually. Additionally, AN EMPLOYEE SHALL ESCORT the vendor's representative
19 ~~shall be escorted~~ at all times ~~by an employee~~ while on-site. At no time shall the
20 voting system vendor have access to any component of the voting system without
supervision by an employee.

21 (D)d. Upon completion of any maintenance, the county shall verify or reinstate the
22 trusted build and conduct a full acceptance test of equipment that shall, at a
23 minimum, include the Hardware Diagnostics test, as indicated in Rule 11, and
24 conduct a mock election in which an employee shall cast a minimum of FIVE ~~ten~~
25 (10) ballots on the device to ensure tabulation of votes is working correctly. All
26 documentation of results of the acceptance testing shall be maintained on file
27 with the specific device.

should be
more than 1
employee
working alone.

28 (E)e. The Secretary of State ~~shall be required to~~ MAY WILL ANNUALLY inspect ~~the~~
29 ~~counties' A COUNTY'S~~ maintenance records on a randomly selected ~~one percent~~
30 (1%) of all voting devices in possession of the counties throughout the state in
31 even numbered years, and to inspect the maintenance records on a randomly
32 selected five percent (5%) of all voting devices in possession of the counties
33 throughout the state in odd numbered years-BASIS.

34 43.8.743.2.7 Transportation of Equipment, MEMORY CARDS, Ballot Boxes, and Ballots

35 (A)43.8.7.1 ~~Counties are required to~~ THE COUNTY SHALL submit detailed plans to the
36 Secretary of State prior to an election regarding the transportation of equipment
37 and ballots both to remote voting sites and back to the central elections office or
38 storage facility. While transportation of equipment may be handled in a multitude
39 of methods, the following standards shall ~~be followed~~ APPLY when transporting
40 voting equipment to the voting location:

41 (1)a. Transportation by County Personnel. County personnel shall at all times
42 display a badge or other identification provided by the County. Two ~~(2)~~

This comment for all following references to potential security incident reporting. The report should be made in writing to clerk AND canvass board. Reporting only to clerk is not adequate.

1 [□] signatures and date of employees ~~shall be~~ ARE required at the departure
2 location verifying that the equipment, including memory card or cartridge, is
3 sealed to prevent tampering. Upon delivery of equipment, at least two ~~(2)~~
employees or election judges shall verify that all seals are intact and that the
serial numbers on the seals agree with those on the ~~seal tracking~~ CHAIN-OF-
CUSTODY log, and sign and date the ~~seal tracking~~ CHAIN-OF-CUSTODY log. If
there is any evidence of possible tampering with a seal, or if the serial
numbers do not agree, they shall immediately notify the county clerk and
recorder who shall follow the procedures specific to the incident as described
in ~~section 43.8.11 of this~~ Rule 43.2.11.

should also require notification to county attorney.

(2)~~b~~. Transportation by Election Judges. Election judges that are receiving equipment from county personnel shall inspect all components of voting devices and verify the specific numbers by signature and date on the ~~seal tracking~~ CHAIN-OF-CUSTODY log for the device. The election judge receiving the equipment shall request two ~~(2)~~ election judges at the voting location to inspect the devices and to sign and date the ~~seal tracking~~ CHAIN-OF-CUSTODY log indicating that all seals are intact and that the serial numbers on the seals agree with those on the seal-tracking log. If there is any evidence of possible tampering with a seal, or if the serial numbers do not agree, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in ~~section 43.8.11 of this~~ Rule 43.2.11.

judges should be of different parties

(3)~~e~~. Transportation by Contract. ~~Counties~~ A COUNTY electing to contract the delivery of equipment to remote voting locations shall perform CBI background checks on the specific individuals who will be delivering the equipment. Two ~~(2)~~ employees or election judges shall verify, sign, and date the ~~seal tracking~~ CHAIN-OF-CUSTODY log upon release of the equipment to the ~~individuals~~ INDIVIDUAL(S) delivering the equipment. Two ~~(2)~~ other employees or election judges shall verify, sign, and date the ~~seal tracking~~ CHAIN-OF-CUSTODY log after the equipment has been delivered, and prior to the opening of the polls. If there is any evidence of possible tampering with a seal, or if the serial numbers do not agree, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in ~~section 43.8.11 of this~~ Rule 43.2.11.

(B)43.8.7.2 ~~The following standards shall be followed when~~ STANDARDS FOR transporting voting equipment TO AND from the voting location:

(1)~~a~~. ~~IF REQUIRED PROCEDURES IF memory cards or cartridges are to be removed from voting devices at remote voting locations, the following procedures are to be followed:~~

when teams of two judges are required-- should be of different parties.

(A)~~i~~. Before removing a memory card or cartridge, two ~~(2)~~ election judges shall inspect and verify that all seals on the device are intact and that the serial numbers on the seals agree with those listed on the ~~seal tracking~~ CHAIN-OF-CUSTODY log. Both election judges shall sign and date the ~~seal tracking~~ CHAIN-OF-CUSTODY log prior to breaking the seal. If there is any evidence of possible tampering with a seal, or if the serial numbers do not agree, they

give guidance on what "tampering" means, with clear bias toward reporting anything

do not agree with what?

above tampering comment meant to apply to all references to tampering below.

1 shall immediately notify the county clerk and recorder who shall
2 follow the procedures specific to the incident as described in
3 ~~section 43.8.11 of this Rule~~ 43.2.11.

4 (B)ii. Election judges shall place the memory cards or cartridges in a
5 sealable transfer case that shall be sealed with at least one ~~(1)~~
6 seal. Additional seal logs shall be maintained for the transfer
7 case of the memory cards or cartridges.

8 (C)iii. Election judges shall place new seals over the empty memory
9 card/cartridge slot and/or door and document the seal numbers
10 used.

11 (D)iv. At least two ~~(2)~~ county personnel or election judges shall
12 accompany the transfer case containing the memory
13 card/cartridge to the drop off location. Seal integrity and serial
14 numbers will be verified, and logs will be signed and dated by
15 election judges receiving the equipment. If there is any evidence
16 of possible tampering with a seal, or if the serial numbers do not
17 agree, the county personnel or election judges shall immediately
18 notify the county clerk and recorder who shall follow the
19 procedures specific to the incident as described in ~~section~~
20 ~~43.8.11 of this Rule~~ 43.2.11.

verified against....

21 (E)v. County personnel or election judges transporting secured voting
22 equipment must maintain ~~chain of custody~~ CHAIN-OF-CUSTODY
23 logs ~~and seal tracking logs~~. If there is any evidence of possible
24 tampering with a seal, or if the serial numbers do not agree, they
25 shall immediately notify the county clerk and recorder who shall
26 follow the procedures specific to the incident as described in
27 ~~section 43.8.11 of this Rule~~ 43.2.11.

28 (2)b. ~~If REQUIRED PROCEDURES IF devices are to be delivered with memory~~
29 ~~cards/cartridges intact, the following procedures shall be followed:~~

30 (A)i. Two ~~(2)~~ county personnel or election judges shall verify that all
31 seals are intact at the close of polls. Election judges shall sign the
32 ~~seal tracking~~ CHAIN-OF-CUSTODY log with such indication. If
33 there is any evidence of possible tampering with a seal, or if the
34 serial numbers do not agree, they shall immediately notify the
35 county clerk and recorder who shall follow the procedures
36 specific to the incident as described in ~~section 43.8.11 of this~~
37 Rule 43.2.11.

38 (B)ii. At least two ~~(2)~~ county personnel or election judges shall
39 accompany the secured equipment to the drop-off location. Seals
40 will be verified, and logs will be signed and dated by the county
41 election official receiving the equipment. If there is any evidence
42 of possible tampering with a seal, or if the serial numbers do not
43 agree, they shall immediately notify the county clerk and

1 recorder who shall follow the procedures specific to the incident
2 as described in ~~section 43.8.11 of this Rule~~ 43.2.11.

3 (C)iii. Upon confirmation that the seals are intact and bear the correct
4 numbers, the memory card or cartridge shall be removed and
5 uploaded into the central count system.

6 (D)iv. Election judges shall secure the equipment by placing a tamper-
7 evident seal over the memory card slot and by updating the
8 documentation to reflect the new seal ~~numbers~~NUMBER(S).

9 (C) REQUIRED PROCEDURES FOR TRANSPORTATION:

10 (1) ALL BALLOT BOXES THAT CONTAIN VOTED BALLOTS SHALL BE SEALED
11 SO THAT NO PERSON CAN ACCESS THE BALLOTS WITHOUT BREAKING A
12 SEAL. THE ELECTION JUDGES SHALL RECORD ALL SEALS IN THE CHAIN-
13 OF-CUSTODY LOG AND TWO ELECTION JUDGES SHALL SIGN THE LOG TO
14 INDICATE THAT THE REQUIRED SEALS ARE INTACT.

of different parties

(2) TWO ELECTION JUDGES SHALL ACCOMPANY ALL BALLOT BOXES THAT
CONTAIN VOTED BALLOTS AT ALL TIMES, EXCEPT WHEN THE BALLOT
BOX IS LOCATED IN A VAULT OR SECURE PHYSICAL LOCATION.

18 (D) THE COUNTY MAY PICK UP BALLOTS FROM POLLING PLACES AS OFTEN AS
19 NEEDED ON ELECTION DAY. COMPLETING THE CHAIN-OF-CUSTODY LOGS
REQUIRED BY THIS RULE FOR EACH BALLOT BOX IS SUFFICIENT TO
SUBSTANTIALLY COMPLY WITH THE BALLOT BOX EXCHANGE REQUIREMENTS IN
SECTION 1-7-305, C.R.S.

completing the logs
is not enough. all
other rules of chain
of custody and
transportation must
be followed.

*(New rule 43.2.7(d) would replace the written plan for alternate counting method in
current Rule 27.8)*

25 43.2.8 CONTINGENCY PLANS

26 (A)~~43.8.8~~ Emergency Contingency Plans for Voting Equipment and Voting Locations

27 (1)~~43.8.8.1~~ All remote devices used in an election shall have sufficient
28 battery backup for at least two (2) hours of use. If this requirement is met
29 by reliance on the internal battery of the voting device, then the county
30 clerk and recorder shall verify that all batteries are fully charged and in
31 working order prior to the opening of polls at the voting location. This
32 requirement also can be met with the purchase of third-party battery
33 backup systems.

34 (2)~~43.8.8.2~~ In the event of a serious or catastrophic equipment failure or
35 equipment being removed from service at one or more polling locations,
36 or there is not adequate backup equipment to meet the requirements of
37 ~~Section~~ SECTION 1-5-501, C.R.S., the county clerk and recorder shall
38 ~~contact~~ NOTIFY the Secretary of State ~~for authorization to use~~ THAT
39 provisional ballots or mail-in ballots ARE BEING USED as an emergency
40 voting method.

- 1 (B) A SECTION ENTITLED "CONTINGENCY PLAN" MUST BE FILED WITH THE SECURITY
 2 PLAN AND MUST INCLUDE THE FOLLOWING:
- 3 (1) EVACUATION PROCEDURES FOR EMERGENCY SITUATIONS INCLUDING
 4 FIRE, BOMB THREAT, CIVIL UNREST, AND ANY OTHER EMERGENCY
 5 SITUATIONS IDENTIFIED BY THE DESIGNATED ELECTION OFFICIAL;
- 6 (2) BACK UP PLANS FOR EMERGENCY SITUATIONS INCLUDING FIRE, SEVERE
 7 WEATHER, BOMB THREAT, CIVIL UNREST, ELECTRICAL BLACKOUT,
 8 EQUIPMENT FAILURE, AND ANY OTHER EMERGENCY SITUATIONS
 9 IDENTIFIED BY THE DESIGNATED ELECTION OFFICIAL;
- 10 (3) AN EMERGENCY CHECKLIST FOR ELECTION JUDGES; AND
- 11 (4) A LIST OF EMERGENCY CONTACT NUMBERS PROVIDED TO ELECTION
 12 JUDGES.

13 *(Current rule 43.10 would be amended and relocated to this proposed new rule*
 14 *43.2.8(b))*

15 ~~43.8.9~~43.2.9 Internal Controls for the Voting System

- (A)~~43.8.9.1~~ In addition to the access controls discussed in ~~section 43.8.3 of this Rule~~
 43.2.1(C), ~~counties are required to~~ THE COUNTY SHALL change all passwords and
 limit access to the following areas:
- (1)~~a.~~ Software. THE COUNTY SHALL CHANGE ~~A~~all software passwords ~~shall be~~
~~changed~~once per calendar year prior to the first election. This includes any
 boot or startup passwords in use, as well as any administrator and user
 passwords and remote device passwords.
- (2)~~b.~~ Hardware. THE COUNTY SHALL CHANGE ~~A~~ALL hardware passwords ~~shall be~~
~~changed~~once per calendar year prior to the first election. This includes any
 encryption keys, key card tools, supervisor codes, poll worker passwords on
 smart cards, USB keys, tokens, and voting devices themselves as it applies to
 the specific system.
- (3)~~e.~~ Password Management. THE COUNTY SHALL LIMIT ~~A~~ACCESS to the
 administrative passwords to the election management software ~~shall be~~
~~limited~~to two (2) employees. THE COUNTY SHALL LIMIT ~~A~~ACCESS to
 passwords for all components of the election software and hardware ~~shall be~~
~~limited~~to two (2) employees. THE COUNTY MAY PROVIDE ~~A~~AN additional
 ten (10) employees ~~may have~~ WITH access to the administrative passwords
 for the software components, and an additional ten (10) employees ~~may have~~
 WITH access to the administrative passwords for the hardware components of
 the voting system.
- (4)~~d.~~ Internet Access. THE COUNTY MUST NEVER CONNECT ~~At no time shall~~ any
 component of the voting system ~~be connected, directly or indirectly,~~ to the
 Internet.

the controls should
 require that passwords
 be used in all system
 components when that
 option exist. (Saguache
 kept password option
 OFF, allowing access
 by anyone.)

no one, --not just
 county---to include
 judges, watchers,
 vendors, ...

same as above.
Needs to include
vendords, judges,
etc.

(E)e. ~~Modem Transmission. THE COUNTY MUST NEVER CONNECT~~ At no time shall any component of the voting system ~~be connected~~ to another device BY MODEM except for the vote tally software, ~~directly or indirectly, by modem~~ as allowable by the certification of the specific device.

(5)f. Remote sites may use modem functions of optical scanners and DREs only for the purpose of transmitting unofficial results, as permitted by the Secretary of State's certification documents for the specific systems. ~~Counties~~ A COUNTY using modem devices to transmit results shall meet the following requirements:

(A)~~i~~. Transmissions may be used only for sending test data or unofficial results; after all other steps have been taken to close the polls. All summary tapes shall be printed before connecting any of the machines to a modem or telephone line.

(B)~~ii~~. Modems shall not be used for any programming, setup, or individual ballot-casting transmissions.

(C)~~iii~~. The receiving telephone number for the modem transmission shall be changed at least once per calendar year prior to the first election.

(D)~~iv~~. A maximum of six ~~(6)~~ employees shall have access to the telephone number receiving the transmission. ~~Counties~~ THE COUNTY shall not publish or print the receiving telephone number for any election judge. To the extent possible, the telephone number shall be programmed into the device and used by the device in a way that is hidden from election judges and voters from seeing the display of the number at any time.

this assumes that public does not have access to ballot/equipment storage areas. this is not true in some counties where public and title company employees have access to vaults and storage areas.

6)g. Authorized Employees. ~~Counties~~ THE COUNTY shall INCLUDE in their security ~~plans~~ PLAN the positions and dates of CBI background checks for employees with access to any of the areas or equipment set forth in this Rule. Each county shall maintain a storage-facility access log that details employee name, date, and time of access to the storage facility in which the software, hardware, or components of any voting system are maintained. If access to the storage facility is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log shall meet the requirements of this rule.

36 43.8-1043.2.10 Security Training for Election Judges

judges' training should be open to the public for observation

(A)43.8-10.1 ~~Counties~~ THE COUNTY shall include in their security plan the details of their security training for their election judges., ~~which shall~~ THE COUNTY MUST ADDRESS include the anticipated time of training, location of training, and number of election judges receiving the security training, as it applies to the following requirements:

(1)a. The county shall conduct a separate training module for field technicians and

1 election judges ~~who will be~~ responsible for overseeing the transportation and
2 use of the voting systems, picking up supplies, and troubleshooting device
3 problems throughout the Election Day.

4 (2)~~b~~. Security training shall include the following components:

5 (A)~~i~~. Proper application and verification of seals and ~~seal tracking~~
6 CHAIN-OF-CUSTODY logs;

need written
definition

7 (B)~~ii~~. ~~How to detect~~ tampering with voting equipment, memory
8 cards/cartridges, or election data on the part of anyone coming in
9 contact with voting equipment, including employees, other
10 election judges, vendor personnel, or voters;

11 (C)~~iii~~. Ensuring privacy in voting booths;

12 (D)~~iv~~. The nature of and reasons for the steps taken to mitigate the
13 security vulnerabilities of voting systems;

14 (E)~~v~~. V-VPAT requirements;

15 (F)~~vi~~. Chain-of-custody requirements for voting equipment, memory
16 cards/cartridges, and other election materials;

17 (G)~~vii~~. Ballot security;

18 county should document
19 who got this training and
20 how many hours.

(H)~~viii~~. Voter anonymity; and

(I)~~ix~~. Recognition and reporting of security incidents.

21 43.8.1143.2.11 Remedies

22 (A)43.8.11.1 If it is detected that the A seal has been IS broken or if there is a
23 discrepancy between the log and the serial number of either a voting device, or a
24 memory card or cartridge, IN A CHAIN-OF-CUSTODY LOG, the condition must be
25 confirmed by one or more of the remaining election judges for the location. The
26 election judges shall immediately notify the county clerk and recorder, who shall
investigate AND COMPLETE AN INTERNAL INCIDENT REPORT. ~~report the incident~~
to the Secretary of State, and follow the appropriate remedy as indicated in this
rule or as directed by the Secretary of State.

and canvass
board.
Canvass board
should be involved
in the investigation.

43.8.11.2 If a seal has been broken or removed under the following conditions:

31 a. During either the transportation, setup, opening polls, or closing polls for the
32 device;

33 b. Two election judges can verify the breaking or removing of the seal; and

34 c. The chain of custody has not been broken, meaning the device has been
35 within ownership of election judges or employees only during this time;

1 ~~The county clerk and recorder shall instruct the election judges to complete a~~
2 ~~security incident report detailing the incident, replacing the seals, and~~
3 ~~updating the chain of custody log as appropriate.~~

4 ~~The Security incident report shall be filed with the Secretary of State during~~
5 ~~the canvass period.~~

6 (B) ~~43.8.11.3~~ IF THE COUNTY CLERK AND RECORDER CONDUCTS AN INVESTIGATION IN
7 ACCORDANCE WITH RULE 43.2.11(A) AND IS UNABLE TO DETERMINE WHY A
8 SEAL WAS BROKEN OR WHY A DISCREPANCY EXISTS IN A CHAIN-OF-CUSTODY
9 LOG, THEN THE COUNTY CLERK AND RECORDER SHALL FILE AN INCIDENT REPORT
10 WITH THE SECRETARY OF STATE AS SOON AS PRACTICABLE, BUT NO LATER THAN
11 THE CLOSE OF THE CANVASS PERIOD FOR THE ELECTION. ~~;~~ ~~If a seal has been~~
12 ~~broken or removed outside of the situation in rule 43.8.11.2, any~~ ANY unit
13 involved must undergo the reinstatement or verification of the trusted build.
14 ~~County clerk and recorders will be required to complete a security incident~~
15 ~~report. The minimum specific requirements on the remedy are as follows the~~
16 following remedial actions are required if a device has been tampered with
17 (additional requirements may be determined based on the details of the incident
18 report):

this seems inadequate---to report an unresolved problem after the canvass.

SOS needs required response and investigation. not just acceptance of report

19 (1) ~~a.~~ For instances where the trusted build hash value (MD5 or SHA-1) of the
20 firmware or software can be displayed, VERIFIED, or printed ~~by the device as~~
21 ~~verified by the State Certification process, the election official SHALL will be~~
22 ~~required to~~ document and verify that the hash value matches the documented
23 number associated with the Trusted Build for the software or firmware of
24 that device.

25 (2) ~~b.~~ If the evidence INDICATES THAT THE TAMPERING OCCURRED ~~is~~ prior to the
26 start of voting:

27 (A) ~~i.~~ The ELECTION JUDGES SHALL SEAL THE device ~~shall be sealed~~
28 and securely delivered IT to the county clerk and recorder.

29 (B) ~~ii.~~ The county clerk and recorder or his or her designee shall
30 remove and secure the memory card following the procedures in
31 ~~section 43.8.1(a)~~ RULE 43.2.1(A). The county clerk and recorder
32 or his or her designee shall follow the State instructions for
33 installing/verifying the trusted build for the specific device. The
34 county clerk and recorder or his or her designee shall install a
35 new, secure memory card into the device, conduct a hardware
36 diagnostics test as prescribed in Rule 11, and proceed to conduct
37 a logic and accuracy test on the machine in full election mode,
38 casting at least 25 ballots on the device. All documentation of
39 testing and chain of custody shall be maintained on file for each
40 specific device.

with election judges--not clerk alone.

41 (C) ~~iii~~ THE COUNTY SHALL ~~Complete~~ COMPLETE the necessary seal
42 process and documentation to re-establish the chain of custody
43 for the device and new memory card.

- 1 (D)iv. THE COUNTY SHALL ~~Set~~ SET the machine to election mode ready
2 for a zero report.
- 3 (E)vi. ~~Complete necessary reports for the Secretary of State regarding~~
4 ~~the incident as soon as practicable, but prior to the close of the~~
5 ~~canvass period for the election~~ REPEALED.
- 6 (3)e. If the evidence INDICATES THAT THE TAMPERING OCCURRED ~~is~~ after votes
7 have been cast on the device but before the close of polls:
- 8 (A)i. The ELECTION JUDGES SHALL SEAL THE device ~~shall be sealed~~
9 and securely delivered IT to the county clerk and recorder.
- 10 (B)ii. The county clerk and recorder or his or her designee shall close
11 the election on that device, and perform a complete manual
12 verification of the paper ballots (or V-VPAT ~~Records~~ RECORDS)
13 to the summary tape printed on the device that represents the
14 record of votes on the memory card.
- 15 (C)iii. If the totals do not match then only the paper record will be
16 accepted as the official results for that device., ~~and the~~ THE
17 COUNTY CLERK AND RECORDER SHALL RE-SEAL AND SECURE
18 THE device ~~shall be re-sealed, secured~~ and IMMEDIATELY
19 reported THE DISCREPANCY to the Secretary of State
20 ~~immediately~~. The COUNTY MUST NOT USE THE device ~~shall not~~
21 ~~be used~~ for the remainder of the election unless ~~the firmware~~
22 ~~and/or software have been reformatted with~~ the trusted build IS
23 REINSTALLED.
- 24 (D)iv. If the totals match, the memory card may be uploaded into the
25 tally software at the close of polls.
- 26 (E)v. After verifying the totals, the paper records and memory card
27 shall be secured with seals and documented properly.
- 28 (F)vi. A new secured memory card shall be placed in the device. The
29 county clerk and recorder or his or her designee shall follow the
30 State instructions for installing/verifying the trusted build for the
31 specific device. The county clerk and recorder or his or her
32 designee shall conduct a hardware diagnostics test as prescribed
33 in Rule 11. All documentation of testing and chain of custody
34 shall be maintained on file for each specific device.
- 35 (G)vii. THE COUNTY SHALL ~~Complete~~ COMPLETE the necessary seal
36 process and documentation to establish the chain of custody for
37 the device and memory card.
- 38 (H)viii. THE COUNTY SHALL ~~Set~~ SET the machine to election mode ready
39 for a zero report.

1
2 SOS must
3 investigate
4 discrepancies.
5

(I)ix.

At the conclusion of the election a full (all races) post-election audit shall be conducted on the device and results reported to the Secretary of State as required by Rule 11. This requirement is in addition to the random selection conducted by the Secretary of State.

6 (J)x.

~~Complete necessary reports for the Secretary of State regarding the incident as soon as practicable, but prior to the close of the canvass period for the election-REPEALED.~~

9 (4)d. If the evidence INDICATES THAT THE TAMPERING OCCURRED is after the
10 close of polls:

11 (A)i. The ELECTION JUDGES SHALL SEAL THE device ~~shall be sealed~~
12 and securely delivered IT to the county clerk and recorder.

13 (B)ii. The county clerk and recorder or his or her designee shall
14 perform a complete manual verification of the paper ballots (or
15 V-VPAT Records-RECORDS) to the summary tape printed on the
16 device that represents the record of votes on the memory card.

17 (C)iii. If the totals do not match then only the paper record will be
18 accepted as the official results for that device., ~~and the COUNTY~~
19 ~~CLERK AND RECORDER SHALL RE-SEAL AND SECURE THE device~~
20 ~~shall be re-sealed, secured~~ and IMMEDIATELY reported THE
21 DISCREPANCY to the Secretary of State immediately. The
22 COUNTY MUST NOT USE THE device ~~shall not be used~~ for the
23 remainder of the election unless ~~the firmware and/or software~~
24 ~~have been reformatted with the trusted build IS REINSTALLED.~~

25 (D)iv. If the totals match, the memory card may be uploaded into the
26 tally software at the close of polls.

27 (E)v. After verifying the totals, the paper records and memory card
28 shall be secured with seals and documented properly.

29 (F)vi. The county clerk and recorder or his or he designee shall follow
30 the State instructions for installing/verifying the trusted build for
31 the specific device and complete the necessary seal process and
32 documentation to establish the chain of custody for the device.

33 (G)vii. During the canvass process, a full (all races) post-election audit
34 shall be conducted on the device and results reported to the
35 Secretary of State as required by Rule 11. This requirement is in
36 addition to the random selection conducted by the Secretary of
37 State.

38 (H)viii. ~~Complete necessary reports for the Secretary of State regarding~~
39 ~~the incident prior to the close of the canvass period for the~~
40 ~~election-REPEALED.~~

1 (C)43.8.11.4 Prior to the submission of certified results from the county, the county
2 clerk and recorder shall provide a written report to the Secretary of State
3 addressing the existence or absence of any security issues related to the
4 implementation and operation of the voting system. All THE county SHALL MAKE
5 ALL documentation related to the voting system AND FOR EVERY DEVICE USED IN
6 THE ELECTION shall be available for inspection by the Secretary of State
7 INSPECTION for all devices used in the election.

8 43.8.1243.2.12 THE COUNTY SHALL SUBMIT Any-ANY additional physical security procedures
9 not discussed IN THIS RULE in these mandatory procedures shall be submitted to the
10 Secretary of State for approval prior to the election.

11 43.93 The COUNTY designated election official shall submit with the security plan sample copies of all
12 referenced forms, schedules, logs, and checklists.

13 43.4 AMENDMENTS AND REVIEW OF SECURITY PLANS

14 43.4.1 IF NO CHANGES HAVE OCCURRED SINCE THE LAST SECURITY PLAN WAS FILED, THE
15 COUNTY SHALL FILE A STATEMENT TO THAT EFFECT.

16 43.4.2 THE COUNTY SHALL CLEARLY IDENTIFY AND DESCRIBE ANY REVISIONS TO A
17 PREVIOUSLY FILED SECURITY PLAN.

18 43.4.3 THE COUNTY MAY CHANGE THE SECURITY PLAN WITHIN 60 DAYS OF AN ELECTION AS A
19 RESULT OF AN EMERGENCY SITUATION OR OTHER UNFORESEEN CIRCUMSTANCE. THE
20 COUNTY MUST DOCUMENT THE CHANGES AND FILE THE REVISIONS WITH THE SECRETARY
21 OF STATE WITHIN FIVE DAYS OF THE CHANGE.

22 43.4.4 IF, UNDER SECTION 1-5-616(5)(B), C.R.S., THE SECRETARY OF STATE IS UNABLE TO
23 COMPLETE ITS REVIEW, THE SECRETARY WILL NOTIFY THE COUNTY THAT THE SECURITY
24 PLAN OR REVISIONS ARE TEMPORARILY APPROVED UNTIL THE REVIEW IS COMPLETE.

25 *(Proposed new rule 43.4 includes the amended and relocated current rules 43.3 through 43.7)*

26 43.10 ~~Included in the security procedures filed with the secretary of state shall be a section entitled~~
27 ~~“contingency plan.” The contingency plan shall include:~~

28 (a) ~~Evacuation procedures for emergency situations including fire, bomb threat, civil unrest,~~
29 ~~and any other emergency situations identified by the designated election official;~~

30 (b) ~~Back up plans for emergency situations including fire, severe weather, bomb threat, civil~~
31 ~~unrest, electrical blackout, equipment failure, and any other emergency situations~~
32 ~~identified by the designated election official;~~

33 (c) ~~An emergency checklist for election judges; and~~

34 (d) ~~A list of emergency contact numbers provided to election judges.~~

35 *(Current rule 43.10 would be amended and relocated to new rule 43.2.8(b))*

36 43.445 Lease, Loan, or Rental of Election Equipment

1 43.115.1 Nothing in this Rule shall be construed to require REQUIRES a county clerk to
2 lease, loan, or rent any election equipment to any municipality, special district or other
3 local jurisdiction.

4 43.115.2 A county clerk who chooses to lease, loan, or rent any certified election
5 equipment to a municipality, special district, or other local jurisdiction for use in their
6 elections shall follow at least one of the following procedures in order to maintain or
7 reestablish an acceptable chain of custody and appropriate documentation pursuant to IN
8 ACCORDANCE WITH Rule 43.8-43.2.1.

9 (A)a. After the LOCAL JURISDICTION RETURNS THE certified equipment has been
10 returned to the county clerk by the applicable jurisdiction, THE COUNTY CLERK
11 MUST REINSTATE OR VERIFY THE TRUSTED BUILD IN ACCORDANCE WITH RULE
12 43.2.11(B)(1) BEFORE use of the equipment IS USED in any primary, general,
13 congressional vacancy, statewide ballot issue (including recall), or special
14 election conducted by the county clerk, reinstatement or verification of the
15 trusted build, pursuant to Rule 43.8.11.3(a), shall be completed.

16 (B)b. The county clerk or their deputized representative shall:

17 (1)I. Deliver the certified equipment to the jurisdiction;

18 (2)II. Witness and document the installation of the memory card(s) or
19 cartridge(s) to be used by the jurisdiction;

20 (3)III. Place one or more secure and numbered seals on the voting equipment
21 pursuant to IN ACCORDANCE WITH Rule 43.8.2-43.2.2. If during the
22 course of the jurisdiction's election, the designated election official
23 requires removal of a memory card or cartridge as a function of the
24 election process, the county clerk or their deputized representative shall
25 witness and document the removal and proper resealing of the memory
26 card or cartridge; and

27 (4)IV. Upon return of the equipment to the county clerk and recorder, the
28 county clerk shall verify and document that the seals are intact. If any
29 seal appears to be damaged or removed, the county clerk shall reinstall or
30 verify the trusted build in accordance with this Rule 43.

31 (C)e. The county clerk and recorder shall designate AND STATION deputized county
32 staff to be stationed with the loaned certified equipment at all times while the
33 equipment is under control of the designated election official. The DEPUTIZED
34 COUNTY STAFF MUST MAINTAIN PHYSICAL CUSTODY OF THE certified equipment
35 shall not be allowed out of the physical custody of the deputized county staff at
36 any time. The deputized county staff shall AT ALL TIMES TO ensure that no
37 unauthorized access occurs.

38 (D)f. Pursuant to IN ACCORDANCE WITH section 1-5-605.5, C.R.S., the county clerk
39 shall appoint the designated election official as a deputy for the purposes of
40 supervising the certified voting equipment. The designated election official shall:

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consider
installation of
trusted build
regardless of
documentation
returned.

- (1)~~I~~ Sign and submit to the county clerk and recorder an affirmation that he/she will ensure the security and integrity of the certified voting equipment at all times;
- (2)~~II~~ Affirm that the use of the certified voting equipment shall be conducted in accordance with Rule 43 and the specific conditions for use of the certified voting equipment; and
- (3)~~III~~ Agree to maintain all ~~chain-of-custody~~ CHAIN-OF-CUSTODY logs for the voting device(s).

~~43.115.3~~

Upon return of the certified voting equipment to the county clerk and recorder, the county clerk ~~shall~~ IS ~~not~~ be required to verify the trusted build if the documentation and chain of custody DOES NOT support the proper maintenance of the trusted build software and chain of custody.