



Notice of Proposed Rulemaking

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

January 13, 2012

I. Notice of hearing

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. A hearing is scheduled for **February 14, 2012 from 1:00 p.m. to 5:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Subject of the proposed rulemaking

The Secretary is considering amendments to the election rules² in order to improve the administration and enforcement of Colorado elections law.³

Specifically, the Secretary will consider amendments to Election Rule 43 concerning county security procedures. A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory authority for proposed rulemaking

The rule revisions and amendments are proposed in accordance with the following statutory provisions:

1. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State "[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws."
2. Section 1-1.5-104(1)(e), C.R.S., (2011), which authorizes the Secretary of State to "[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the "Help America Vote Act of 2002", 42 U.S.C. 15301-15545]."

¹ Section 24-4-103(3)(a), C.R.S. (2011).

² 8 CCR 1505-1.

³ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State's rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearing20120214.html.

You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by February 9, 2012.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process, and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

All interested persons will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office anytime before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearing20120214.html. Prior to posting online, contact information including home address, email address, and telephone number(s) will be redacted from submissions unless otherwise directed by the contributor.

VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Blue Spruce Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on "archived recordings" to access an audio recording of the hearing.

⁴ Section 24-4-103(3)(a), C.R.S. (2011). "Any 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."

VII. Office contact

If you have any questions or would like to submit written comments, please contact Andrea Gyger with the Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 13th Day of January, 2012.



William A. Hobbs
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State



Proposed Statement of Basis, Purpose, and Specific Statutory Authority

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

January 13, 2012

I. Basis and Purpose

This statement is about amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.¹ The revisions are also intended to improve the administration of elections in Colorado, to increase the transparency and security of the election process, and to answer questions arising under State election laws as follows:

- New Rules 43.2.7(c) and (d) strengthen the security required for transporting ballots and clarify the written plan for alternative counting method. Specifically, the ballot transportation provisions previously outlined in repealed Rule 27.8 are relocated to new paragraph (d) to consolidate all ballot transportation provisions in the same rule. Additionally, new paragraph (c) requires that two election judges accompany ballots at during all stages of transportation.
- Revisions to Rule 43.1.2 eliminate redundancy and clarify the definition of “video security surveillance recording”. Going forward, the term means video monitoring by a device that continuously records a designated location. Therefore, it is unnecessary to include the word “continuous” as part of the defined term. Additional amendments provide language to clarify the standard for video surveillance equipment that is dependent on motion detection.
- Amendments to Rule 43.2 reorganize the Security Plan requirements.
- Revisions to Rule 43.2.2 add a general requirement that election judges record and verify all seal numbers and outline the number of seals that the county must use to ensure the integrity of each component of a DRE.
- Amendments to Rule 43.2.5(a) ensure that video surveillance systems do not record over records that the county clerk and recorder must maintain for 25 months.
- Current Rule 43.10 is relocated to proposed new Rule 43.2.8(b).

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

- Amendments to Rule 43.2.11 outline the county’s responsibilities regarding investigation, documentation and reporting chain-of-custody issues. Specifically, paragraph (a) requires the county clerk and recorder to investigate broken seals and discrepancies in chain-of-custody logs, and complete an internal incident report.

The amendments to paragraphs (b) and (c) clarify that the county clerk is not required to provide written reports to the Secretary of State’s Office for every security issue. But, the county clerk must send a copy of the incident report to the Secretary of State’s Office if the clerk cannot determine why a seal was broken or there is a discrepancy in a chain-of-custody log after an investigation under the Rule. The Secretary of State retains the ability to inspect county documentation, including incident reports, at any time.

- Current Rules 43.3 through 43.7 are relocated to Rule 43.4.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1)(e), C.R.S., (2011), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545].”

Preliminary Draft of Proposed Rules

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

January 13, 2012

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 February 14, 2012 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 **February 9, 2012**.²

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

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

(Annotations) may be included.

1 Rule 27.8 would be repealed as follows:

2 27.8 REPEALED. ~~Written Plan for Alternative Counting Method~~

3 ~~27.8.1 General Information Concerning Plan Submittal~~

4 ~~27.8.1.1 Any plan requiring the approval of the Secretary of State for counting votes~~
5 ~~at an alternative location or by an alternative method pursuant to section 1-7-~~
6 ~~603, C.R.S., shall be submitted in writing to the Secretary of State no earlier~~
7 ~~than 120 days and no later than 60 days prior to the election at which it is to~~
8 ~~be implemented. A separate plan shall be submitted for each election; except~~
9 ~~that a combined plan may be submitted for both the primary and general~~
10 ~~elections in the same year. If a combined plan is approved, the Secretary of~~
11 ~~State may withdraw approval or require revision of the plan after the primary~~
12 ~~election and no later than the seventieth day before the general election. A~~
13 ~~revised plan, if so required, shall be submitted for approval no later than 60~~
14 ~~days before the general election.~~

15 ~~27.8.1.2 The Secretary of State shall approve or disapprove the alternative counting~~
16 ~~plan no later than forty five (45) days before the election at which the plan is~~
17 ~~to be implemented.~~

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2011). 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. (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 ~~27.8.1.3~~ No alternative counting plan may be implemented without express written
2 approval from the Secretary of State. Any submitted plan must establish
3 minimum procedures in accordance with the requirements of this Rule 27.8.

4 ~~27.8.2~~ Transfer Logs

5 ~~27.8.2.1~~ The transfer logs shall at minimum contain: the date of the election; the
6 precinct number; the seal numbers; and the names of the polling place
7 judge(s), the transfer judge(s), and the counting judge(s) who carryout the
8 ballot transfer.

9 ~~27.8.3~~ Procedures to be Followed at the Polling Place

10 ~~27.8.3.1~~ Each polling place shall have available for use a minimum of two (2) ballot
11 boxes to ensure that at least one (1) ballot box is always available to receive
12 voted ballots.

13 ~~27.8.3.2~~ At time of ballot transfer, a bipartisan team of at least two (2) transport
14 judges and one (1) polling place judge shall transfer ballots in accordance
15 with the following provisions:

16 ~~27.8.3.2.1~~ Both transfer judges and the polling place judge shall review the
17 transfer logs to ensure that all information is complete and accurate.
18 When all information is complete and accurate, both transfer judges
19 and the polling place judge shall initial all copies of the transfer
20 logs.

21 ~~27.8.3.2.2~~ In full view of the polling place judge, the transfer judges shall
22 secure the transfer log that is to remain with transfer case. The
23 transfer judges shall secure the transfer case in accordance with
24 section 1-7-307 (3), C.R.S. The seal number of the seal to be used
25 shall be noted on the transfer logs prior to sealing the transfer case.

26 ~~27.8.3.2.3~~ At the close of the polls, the duplicate copies of the polling place
27 transfer log(s) shall be mailed at the nearest post office or post-
28 office box by a polling place judge to the designated election
29 official.

30 ~~27.8.3.2.4~~ Pursuant to section 1-7-108 (3), C.R.S., duly appointed watchers
31 may observe all aspects of the process described in this Rule 27.8.

32 ~~27.8.4~~ Procedures to be Followed During Transport

33 ~~27.8.4.1~~ During ballot transport, the sealed ballot transfer case shall be within the
34 close physical proximity of the bipartisan team of transfer judges at all times.

35 ~~27.8.4.2~~ Delivery of the sealed ballot transfer case to the counting location shall be
36 made at once and with all convenient speed. However, nothing in this Rule
37 ~~27.8.4.2~~ shall be interpreted to prohibit transfer judges from stopping at
38 multiple polling places before arriving at the counting location.

1 ~~27.8.5 Procedures to be Followed at the Counting Location~~

2 ~~27.8.5.1 Upon arrival at the counting location, the bipartisan team of transfer judges~~
3 ~~shall deliver the sealed ballot transfer case to the designated election official~~
4 ~~or counting judges.~~

5 ~~27.8.5.2 The designated election official or counting judges shall take possession of~~
6 ~~the transferred ballots by noting the delivery date and time and verifying the~~
7 ~~seal numbers on the transfer log.~~

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

9 Rule 43 would be amended as follows:

10 **Rule 43. County Security Procedures**

11 43.1 Definitions

12 43.1.1 ~~“Chain of custody CHAIN-OF-CUSTODY log” shall, for the purposes of this rule means a~~
13 written record that shows that the equipment and all associated data are secured
14 according to these procedures and in the documented control of an employee or deputized
15 election judge through the entire time of ownership by the jurisdiction.

16 43.1.2 ~~“Continuous video VIDEO security surveillance recording” shall, for the purposes of this~~
17 ~~rule, means video monitoring by a device which THAT continuously records a designated~~
18 location. Alternatively, A DIGITAL RECORDING SYSTEM WITH MOTION DETECTION MEETS
19 THIS DEFINITION IF IT CAN BE PROGRAMMED TO RECORD AT A RATE OF ONE FRAME PER
20 MINUTE OR MORE WHEN MOTION DETECTION IS USED TO TRIGGER CONTINUOUS
21 RECORDING. ~~this definition may be met by the use of a “non continuous” recording,~~
22 ~~provided that a device is used which samples the functionality of the video recorder~~
23 ~~without interruption, evaluates the detector response at least once every 15 seconds, and~~
24 ~~computes and records the average value at least every 60 seconds, except during~~
25 ~~allowable periods of calibration.~~

26 43.1.3 “DRE” means a direct recording electronic voting device. A DRE is a voting device that
27 records votes by means of a ballot display provided with mechanical or electro-optical
28 components or an audio ballot that can be activated by the voter; that processes data by
29 means of a computer program; and that records voting data and ballot images in memory
30 components or other media. The device may produce a tabulation of the voting data
31 stored in a removable memory component and as printed copy. The device may also
32 provide a means for transmitting individual ballots or vote totals to a central location for
33 consolidating and reporting results from remote sites to the central location.

34 43.1.4 “Employee” ~~shall, for the purposes of this rule, means~~ all full-time, part-time, permanent,
35 and contract employees of the county who have had a criminal history check conducted
36 in accordance with Rule 11.2 and are deputized by the county clerk and recorder to
37 prepare or maintain the voting system or election setup materials, staff the counting
38 center and who have any access to the electromechanical voting systems or electronic
39 vote tabulating equipment.

1 43.1.5 “Removable card or cartridge” ~~shall, for the purposes of this rule, mean~~ all ANY
2 programming cards or cartridges, except A voter activation cards, that stores firmware,
3 software, or data.

4 43.1.6 “SEAL” MEANS A SERIAL-NUMBERED TAMPER-EVIDENT DEVICE THAT INDICATES WHEN
5 IT HAS BEEN BROKEN OR REMOVED.

6 43.1.67 “Trusted Build” means the write-once installation disk or disks for software and firmware
7 for which the Secretary of State or his/her agent has established the chain of evidence to
8 the building of a disk, which is then used to establish and/or re-establish the chain of
9 custody of any component of the voting system which contains firmware or software. The
10 trusted build is the origin of the chain of evidence for any software and firmware
11 component of the voting system.

12 43.2 Pursuant to section 1-5-616(5), C.R.S., each county shall file with the Secretary of State a
13 security plan that meets or exceeds the standards set forth in this rule. The plan filed with the
14 Secretary of State in accordance with this rule shall provide a point by point detailed response
15 with a proposed solution to each of the requirements set forth in this rule. ANNUAL SECURITY
16 PLAN. IN ACCORDANCE WITH SECTION 1-5-616(5), C.R.S., EACH COUNTY MUST SUBMIT A
17 SECURITY PLAN TO THE SECRETARY OF STATE ANNUALLY AND NO LATER THAN 60 DAYS PRIOR
18 TO THE FIRST ELECTION IN WHICH THE SECURITY PLAN PROCEDURES WILL BE USED. THE PLAN
19 MUST, AT A MINIMUM, INCLUDE THE FOLLOWING:

20 43.3 ~~The county shall file security procedures annually no later than sixty (60) days prior to the first~~
21 ~~election in which the procedures will be used.~~

22 43.4 ~~If no changes have occurred since the last security procedures filed, the county shall file a~~
23 ~~statement to that effect.~~

24 43.5 ~~Revisions to previously filed security procedures shall clearly state which part of the procedures~~
25 ~~previously filed have been revised.~~

26 43.6 ~~Each designated election official county may change the security procedures within sixty (60)~~
27 ~~days of an election as a result of an emergency situation or other unforeseen circumstance, and~~
28 ~~document any changes. The county designated election official shall file any revisions with the~~
29 ~~Secretary of State within five (5) days of the change.~~

30 43.7 ~~If, pursuant to section 1-5-616(5)(b), C.R.S., the Secretary of State is unable to complete its~~
31 ~~review, the procedures or revisions shall be temporarily approved until such time as the review is~~
32 ~~completed. The Secretary of State shall notify the county of temporary approval.~~

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

34 43.8 ~~Security Procedures shall at a minimum include, if applicable:~~

35 43.8.143.2.1 General Requirements:

36 a. ~~At all times removable memory cards and cartridges shall be handled in a secure manner~~
37 ~~as follows. When not sealed in voting machines, all removable cards and cartridges shall~~
38 ~~be transferred and stored in secure containers with at least one tamper evident seal with~~

1 ~~printed serial numbers. The integrity and serial number of each seal shall be verified by~~
2 ~~election judges or county personnel at shipping and receiving locations.~~

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

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

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

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

21 (E)~~f.~~ Any form or log containing "date" means to note the month, calendar day, year,
22 hour, minute, and whether the time is a.m. or p.m.

23 ~~43.8.243.2.2~~ Physical Locking Mechanisms and Seals. THE COUNTY MUST RECORD THE
24 SERIAL NUMBER OF EVERY SEAL ON THE APPROPRIATE CHAIN-OF-CUSTODY LOG. TWO
25 INDIVIDUALS MUST VERIFY THE SERIAL NUMBER AND SIGN THE LOG. IF A SEAL IS
26 INACCESSIBLE AND CANNOT BE REMOVED, THEN IT IS NOT NECESSARY TO VERIFY THAT
27 SEAL SERIAL NUMBER.

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

31 (1)~~i.~~ A seal shall be placed over any removable card or cartridge that is
32 inserted into the unit, or over the slot or door covering the card or
33 cartridge.

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

36 (3)~~iii.~~ ~~Tamper evident, numbered seals shall be affixed across the seam at~~
37 ~~which the two sides of the case of the electronic components of the~~
38 ~~voting unit join, with at least one seal for each of the four sides of the~~
39 ~~device; except in the instances where the hash value (MD5 or SHA 1) of~~
40 ~~the firmware or software can be displayed or printed by the device as~~
41 ~~verified by the State Certification process. In such cases, additional seals~~

1 ~~for the case are not required. Officials shall produce documentation of~~
2 ~~the verification of the hash value during Hardware Diagnostics Testing,~~
3 ~~Pre Election testing and prior to the Post Election Audit as required in~~
4 ~~Rule 11~~ IF THE FIRMWARE OR SOFTWARE HASH VALUE (MD5 OR SHA-1)
5 CANNOT BE VERIFIED, THE COUNTY MUST SEAL THE DRE CASE WITH A
6 SEAL THAT ENSURES THE INTEGRITY OF THE ELECTRONIC COMPONENTS
7 CONTAINED INSIDE. SEALS SHALL BE USED AT EITHER THE SEAMS OF THE
8 CASE OR AT KEY ENTRY POINTS SUCH AS SCREW ACCESS POINTS.

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

12 (5) ~~v.~~ These same procedures also apply to the Judge's Booth Controller (JBC)
13 unit for the Hart InterCivic System.

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

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

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

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

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

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

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

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

- 1 (1) THE COUNTY MUST ASSIGN AND SECURELY AFFIX A PERMANENT SERIAL
 2 NUMBER TO EACH REMOVABLE CARD OR CARTRIDGE. THE
 3 MANUFACTURER ASSIGNED SERIAL NUMBER MAY BE USED FOR THIS
 4 PURPOSE.
- 5 (2) THE COUNTY MUST HANDLE REMOVABLE MEMORY CARDS AND
 6 CARTRIDGES IN A SECURE MANNER AT ALL TIMES. ANY REMOVABLE
 7 CARD AND/OR CARTRIDGE THAT IS NOT SEALED IN A VOTING MACHINE
 8 MUST BE TRANSFERRED AND STORED IN A SECURE CONTAINER WITH AT
 9 LEAST ONE SEAL. THE SERIAL NUMBER OF EACH SEAL SHALL BE
 10 VERIFIED BY ELECTION JUDGES OR COUNTY PERSONNEL IN THE CHAIN-
 11 OF-CUSTODY LOGS UPON DELIVERY AND RECEIPT.
- 12 (3) THE COUNTY CLERK AND RECORDER MUST MAINTAIN A WRITTEN OR
 13 ELECTRONIC LOG TO RECORD CARD OR CARTRIDGE SEAL SERIAL
 14 NUMBERS AND TRACK SEALS FOR EACH VOTING UNIT. THE COUNTY
 15 CLERK AND RECORDER MUST BE NOTIFIED IF CONTROL OF A
 16 CARD/CARTRIDGE OR DOOR OR SLOT FOR A CARD/CARTRIDGE IS
 17 BREACHED BEFORE AN ELECTION, AND HE/SHE MUST FOLLOW THE
 18 PROCEDURES SPECIFIC TO THE INCIDENT OUTLINED IN RULE 43.2.11.

19 ~~43.8.3~~43.2.3 Individuals With Access to Keys, Door Codes, and Vault Combinations

20 (A)~~43.8.3.1~~ FOR EMPLOYEES WITH ACCESS TO AREAS ADDRESSED IN RULE 43.2.3(C),
 21 THE COUNTY MUST ~~Counties are required to state~~ the EMPLOYEES' TITLES
 22 ~~positions~~ and THE dates of CBI background ~~check~~ CHECKS. ~~for employees with~~
 23 ~~access to the areas addressed in this Rule 43.8.3.~~

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

28 (C) EMPLOYEE ACCESS

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

35 ~~43.8.3.3~~ ~~The requirements for an employee to be given access to a code, combination,~~
 36 ~~password, or encryption key are as follows:~~

37 (A)~~a.~~ Access to the code, combination, password, or encryption key
 38 for the storage area for voting equipment and the mail-in ballot
 39 counting areas ~~shall be~~ IS restricted to employees as defined in
 40 43.1.4.

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

5 (C)~~e~~. Except for emergency personnel, no other individuals shall be
6 present in these locations unless supervised by one or more
7 employees as defined in Rule 43.1.4.

8 (I)~~i~~. Each individual who has access to the central election
9 management system or central tabulator shall have their
10 own unique username and password. No individual shall
11 use any other individual's username or password. Shared
12 accounts ~~shall be~~ ARE prohibited.

13 (II)~~ii~~. The county shall maintain a log of each person who
14 enters the ballot storage room, including the person's
15 name, signature, and date and time of entry. If access to
16 the ballot storage room is controlled by use of key card
17 or similar door access system that is capable of
18 producing a printed paper log including the person's
19 name and date and time of entry, such a log shall meet
20 the requirements of this rule.

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

24 (D)~~43.8.3.4~~ Computer room access ~~shall be~~ IS limited to employees and election
25 judges only, and the delivery of ballots between the preparation room and
26 computer room shall be performed by messengers or runners wearing
27 distinguishing identification.

28 ~~43.8.443.2.4~~ Temperature-controlled Storage.

29 ~~43.8.4.1 Counties~~ THE COUNTY MUST MAINTAIN ALL COMPONENTS OF THE VOTING
30 SYSTEM AND BALLOTS IN A TEMPERATURE-CONTROLLED ENVIRONMENT. THE
31 COUNTY shall attest to the temperature-control settings used with the following
32 components of a voting system. Information submitted to the Secretary of State
33 shall indicate the specifics for each type of component, as well as the specific
34 environment used, which may include, but is not limited to controlled offices,
35 controlled vaults, and controlled warehouses. The settings for temperature
36 control must be at least the following:

37 (A)~~a~~. Servers and Workstations. ~~Servers and workstations shall be maintained in a~~
38 ~~temperature controlled environment.~~ THE COUNTY SHALL MAINTAIN THE
39 TEMPERATURE SETTING SO THAT THE MAXIMUM ~~Maximum~~ temperature shall at
40 no time exceeds 90 degrees ~~fahrenheit~~ FAHRENHEIT.

41 (B)~~b~~. DREs. ~~DREs shall be maintained in a temperature controlled environment.~~ THE
42 COUNTY SHALL MAINTAIN THE ~~The~~ temperature settings shall be maintained at a

1 minimum of ~~60~~50 degrees ~~fahrenheit~~FAHRENHEIT and a maximum of 90
2 degrees ~~fahrenheit~~FAHRENHEIT.

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

7 (D)~~d~~. V-VPAT Records. In addition to the requirements set forth in Rule 11, THE
8 COUNTY SHALL MAINTAIN THE ~~V-VPAT records shall be maintained in a~~
9 ~~temperature controlled environment.~~ The temperature settings ~~shall be~~
10 ~~maintained~~ at a minimum of 50 degrees ~~fahrenheit~~FAHRENHEIT and a maximum
11 of ~~80~~90 degrees ~~fahrenheit~~FAHRENHEIT. THE COUNTY SHALL MAINTAIN V-
12 VPAT records ~~shall also be maintained~~ in a dry environment, with storage at
13 least ~~4~~FOUR inches above the finished floor, for a period of 25 months following
14 the election. The humidity of the environment shall not exceed 80% humidity for
15 a period of more than 24 hours. V-VPAT records shall be stored in a manner that
16 prevents exposure to light, except as necessary during recounts and audits.

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

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

30 ~~43.8.543.2.5~~ Security Cameras or Other Surveillance

31 (A)~~43.8.5.1~~ Unless otherwise instructed, ~~continuous~~ THE COUNTY SHALL MAKE video
32 security surveillance recordings of specified areas ~~shall be made~~ beginning at
33 least ~~sixty (60)~~ days prior to the election and continuing through at least ~~thirty~~
34 (~~30~~) days after the election, unless there is a recount or contest. THE RECORDING
35 SYSTEM SHALL ENSURE THAT RECORDS ARE NOT WRITTEN OVER WHEN THE
36 SYSTEM IS FULL. THE RECORDING SYSTEM SHALL PROVIDE A METHOD TO
37 TRANSFER THE VIDEO RECORDS TO A DIFFERENT RECORDING DEVICE OR TO
38 REPLACE THE RECORDING MEDIA. IF REPLACEABLE MEDIA IS USED THEN THE
39 COUNTY SHALL PROVIDE A PROCESS THAT ENSURES THAT THE MEDIA IS
40 REPLACED OFTEN ENOUGH TO PREVENT PERIODS WHEN RECORDING IS NOT
41 AVAILABLE. If a recount or contest occurs, the recording shall continue through
42 the conclusion of all such activity. The following are the specific minimum
43 requirements:

- 1 (1)~~a.~~ ~~Counties~~ IF THE COUNTY HAS 50,000 OR MORE REGISTERED VOTERS,
 2 THEN THE COUNTY ~~over 50,000 registered voters~~ shall make ~~continuous~~
 3 video security surveillance recordings of the following areas:
- 4 (A)~~i.~~ All areas in which election software is used, including but not
 5 limited to programming, downloading memory cards, uploading
 6 memory cards, tallying results, and results reporting.
- 7 (B)~~ii.~~ All areas used for processing mail-in ballots, including but not
 8 limited to areas used for Signature Verification, tabulation, or
 9 storage of voted ballots beginning at least ~~thirty five (35)~~ days
 10 prior to the election and continuing through at least ~~thirty (30)~~
 11 days after the election, unless there is a recount or contest. If a
 12 recount or contest occurs, the recording shall continue through
 13 the conclusion of all such activity.
- 14 (C)~~iii.~~ The storage area for all voting equipment.
- 15 (2)~~b.~~ IF THE COUNTY HAS FEWER THAN ~~Counties under~~ 50,000 registered
 16 voters THEN THE COUNTY shall make ~~continuous~~ video security
 17 surveillance recordings of ~~the following areas~~:
- 18 ~~i.~~ ~~All~~ ALL areas in which election software is used, including but
 19 not limited to programming, downloading memory cards,
 20 uploading memory cards, tallying results, and results reporting.

21 ~~43.8.643.2.6~~ Equipment Maintenance Procedures.

22 ~~43.8.6.1~~ In addition to the requirements for voting systems specified in Rule 11, the
 23 COUNTY SHALL ADHERE TO THE following minimum standards ~~shall be adhered~~
 24 ~~to~~:

- 25 (A)~~a.~~ THE COUNTY SHALL STORE ~~A~~ All equipment ~~shall be stored~~ throughout the year
 26 with ~~serially numbered, tamper evident~~ seals over the memory card slots for each
 27 device. The county shall maintain a log of the seals used for each device
 28 consistent to the logs used for tracking Election Day seals.
- 29 (B)~~b.~~ For equipment being sent to the vendor for offsite repairs/replacements, the
 30 county must maintain a log file for the device that shall contain the following: the
 31 model number, serial number, and the type of device; the firmware version; the
 32 software version (as applicable); date of submission to the vendor.
- 33 (C)~~c.~~ For equipment receiving maintenance on-site by the vendor, the county shall
 34 verify that a CBI background check has been conducted on all vendor personnel
 35 with access to any component of the voting system. THE COUNTY MUST UPDATE
 36 AND MAINTAIN CBI information ~~shall be updated and maintained~~ on file
 37 annually. Additionally, AN EMPLOYEE SHALL ESCORT the vendor's representative
 38 ~~shall be escorted~~ at all times ~~by an employee~~ while on-site. At no time shall the
 39 voting system vendor have access to any component of the voting system without
 40 supervision by an employee.

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

8 (E)~~e~~. The Secretary of State ~~shall be required to~~ MAY WILL ANNUALLY inspect the
9 ~~counties~~²A COUNTY'S maintenance records on a randomly selected ~~one percent~~
10 (1%) of all voting devices in possession of the counties throughout the state in
11 even numbered years, and to inspect the maintenance records on a randomly
12 selected five percent (5%) of all voting devices in possession of the counties
13 throughout the state in odd numbered years-BASIS.

14 43.8.743.2.7 Transportation of Equipment, MEMORY CARDS, Ballot Boxes, and Ballots

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

21 (1)~~a~~. Transportation by County Personnel. County personnel shall at all times
22 display a badge or other identification provided by the County. Two ~~(2)~~
23 signatures and date of employees ~~shall be~~ ARE required at the departure
24 location verifying that the equipment, including memory card or cartridge, is
25 sealed to prevent tampering. Upon delivery of equipment, at least two ~~(2)~~
26 employees or election judges shall verify that all seals are intact and that the
27 serial numbers on the seals agree with those on the ~~seal tracking~~-CHAIN-OF-
28 CUSTODY log, and sign and date the ~~seal tracking~~-CHAIN-OF-CUSTODY log. If
29 there is any evidence of possible tampering with a seal, or if the serial
30 numbers do not agree, they shall immediately notify the county clerk and
31 recorder who shall follow the procedures specific to the incident as described
32 in ~~section 43.8.11 of this~~ Rule 43.2.11.

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

45 (3)~~e~~. Transportation by Contract. ~~Counties~~-A COUNTY electing to contract the

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

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

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

17 (A)~~i.~~ Before removing a memory card or cartridge, two ~~(2)~~ election
18 judges shall inspect and verify that all seals on the device are
19 intact and that the serial numbers on the seals agree with those
20 listed on the ~~seal-tracking~~ CHAIN-OF-CUSTODY log. Both election
21 judges shall sign and date the ~~seal-tracking~~ CHAIN-OF-CUSTODY
22 log prior to breaking the seal. If there is any evidence of possible
23 tampering with a seal, or if the serial numbers do not agree, they
24 shall immediately notify the county clerk and recorder who shall
25 follow the procedures specific to the incident as described in
26 ~~section 43.8.11 of this~~ Rule 43.2.11.

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

31 (C)~~iii.~~ Election judges shall place new seals over the empty memory
32 card/cartridge slot and/or door and document the seal numbers
33 used.

34 (D)~~iv.~~ At least two ~~(2)~~ county personnel or election judges shall
35 accompany the transfer case containing the memory
36 card/cartridge to the drop off location. Seal integrity and serial
37 numbers will be verified, and logs will be signed and dated by
38 election judges receiving the equipment. If there is any evidence
39 of possible tampering with a seal, or if the serial numbers do not
40 agree, the county personnel or election judges shall immediately
41 notify the county clerk and recorder who shall follow the
42 procedures specific to the incident as described in ~~section~~
43 ~~43.8.11 of this~~ Rule 43.2.11.

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

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

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

18 (B)~~ii.~~ At least two ~~(2)~~ county personnel or election judges shall
19 accompany the secured equipment to the drop-off location. Seals
20 will be verified, and logs will be signed and dated by the county
21 election official receiving the equipment. If there is any evidence
22 of possible tampering with a seal, or if the serial numbers do not
23 agree, they shall immediately notify the county clerk and
24 recorder who shall follow the procedures specific to the incident
25 as described in ~~section 43.8.11 of this Rule~~ 43.2.11.

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

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

32 (C) REQUIRED PROCEDURES FOR TRANSPORTATION:

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

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

41 (D) THE COUNTY MAY PICK UP BALLOTS FROM POLLING PLACES AS OFTEN AS
42 NEEDED ON ELECTION DAY. COMPLETING THE CHAIN-OF-CUSTODY LOGS

1 REQUIRED BY THIS RULE FOR EACH BALLOT BOX IS SUFFICIENT TO
2 SUBSTANTIALLY COMPLY WITH THE BALLOT BOX EXCHANGE REQUIREMENTS IN
3 SECTION 1-7-305, C.R.S.

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

6 43.2.8 CONTINGENCY PLANS

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

8 (1)~~43.8.8.1~~ All remote devices used in an election shall have sufficient
9 battery backup for at least two (~~2~~) hours of use. If this requirement is met
10 by reliance on the internal battery of the voting device, then the county
11 clerk and recorder shall verify that all batteries are fully charged and in
12 working order prior to the opening of polls at the voting location. This
13 requirement also can be met with the purchase of third-party battery
14 backup systems.

15 (2)~~43.8.8.2~~ In the event of a serious or catastrophic equipment failure or
16 equipment being removed from service at one or more polling locations,
17 or there is not adequate backup equipment to meet the requirements of
18 ~~Section~~ SECTION 1-5-501, C.R.S., the county clerk and recorder shall
19 ~~contact~~ NOTIFY the Secretary of State ~~for authorization to use~~ THAT
20 provisional ballots or mail-in ballots ARE BEING USED as an emergency
21 voting method.

22 (B) A SECTION ENTITLED “CONTINGENCY PLAN” MUST BE FILED WITH THE SECURITY
23 PLAN AND MUST INCLUDE THE FOLLOWING:

24 (1) EVACUATION PROCEDURES FOR EMERGENCY SITUATIONS INCLUDING
25 FIRE, BOMB THREAT, CIVIL UNREST, AND ANY OTHER EMERGENCY
26 SITUATIONS IDENTIFIED BY THE DESIGNATED ELECTION OFFICIAL;

27 (2) BACK UP PLANS FOR EMERGENCY SITUATIONS INCLUDING FIRE, SEVERE
28 WEATHER, BOMB THREAT, CIVIL UNREST, ELECTRICAL BLACKOUT,
29 EQUIPMENT FAILURE, AND ANY OTHER EMERGENCY SITUATIONS
30 IDENTIFIED BY THE DESIGNATED ELECTION OFFICIAL;

31 (3) AN EMERGENCY CHECKLIST FOR ELECTION JUDGES; AND

32 (4) A LIST OF EMERGENCY CONTACT NUMBERS PROVIDED TO ELECTION
33 JUDGES.

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

36 ~~43.8.9~~43.2.9 Internal Controls for the Voting System

1 (A) ~~43.8.9.1~~ In addition to the access controls discussed in ~~section 43.8.3 of this Rule~~
2 43.2.1(C), ~~counties are required to~~ THE COUNTY SHALL change all passwords and
3 limit access to the following areas:

4 (1) ~~a.~~ Software. THE COUNTY SHALL CHANGE ~~A~~ All software passwords ~~shall be~~
5 ~~changed~~ once per calendar year prior to the first election. This includes any
6 boot or startup passwords in use, as well as any administrator and user
7 passwords and remote device passwords.

8 (2) ~~b.~~ Hardware. THE COUNTY SHALL CHANGE ~~A~~ ALL hardware passwords ~~shall be~~
9 ~~changed~~ once per calendar year prior to the first election. This includes any
10 encryption keys, key card tools, supervisor codes, poll worker passwords on
11 smart cards, USB keys, tokens, and voting devices themselves as it applies to
12 the specific system.

13 (3) ~~e.~~ Password Management. THE COUNTY SHALL LIMIT ~~A~~ ACCESS to the
14 administrative passwords to the election management software ~~shall be~~
15 ~~limited~~ to two (2) employees. THE COUNTY SHALL LIMIT ~~A~~ ACCESS to
16 passwords for all components of the election software and hardware ~~shall be~~
17 ~~limited~~ to two (2) employees. THE COUNTY MAY PROVIDE ~~A~~ AN additional
18 ten (10) employees ~~may have~~ WITH access to the administrative passwords
19 for the software components, and an additional ten (10) employees ~~may have~~
20 WITH access to the administrative passwords for the hardware components of
21 the voting system.

22 (4) ~~d.~~ Internet Access. THE COUNTY MUST NEVER CONNECT ~~At no time shall~~ any
23 component of the voting system ~~be connected, directly or indirectly,~~ to the
24 Internet.

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

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

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

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

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

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

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

18 ~~43.8.10~~43.2.10 Security Training for Election Judges

19 (A)~~43.8.10.1~~ ~~Counties~~—THE COUNTY shall include in their security plan the details of
20 their security training for their election judges., ~~which shall~~—THE COUNTY
21 MUST ADDRESS ~~include~~ the anticipated time of training, location of
22 training, and number of election judges receiving the security training, as
23 it applies to the following requirements:

24 (1)a. The county shall conduct a separate training module for field technicians and
25 election judges ~~who will be~~ responsible for overseeing the transportation and
26 use of the voting systems, picking up supplies, and troubleshooting device
27 problems throughout the Election Day.

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

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

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

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

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

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

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

- (G)~~vii.~~ Ballot security;
- (H)~~viii.~~ Voter anonymity; and
- (I)~~ix.~~ Recognition and reporting of security incidents.

43.8.1143.2.11 Remedies

~~(A)43.8.11.1~~ If it is detected that the A seal has been IS broken or if there is a discrepancy between the log and the serial number of either a voting device, or a memory card or cartridge, IN A CHAIN-OF-CUSTODY LOG, the condition must be confirmed by one or more of the remaining election judges for the location. The 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.~~

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

- ~~a.~~ — During either the transportation, setup, opening polls, or closing polls for the device;
- ~~b.~~ — Two election judges can verify the breaking or removing of the seal; and
- ~~c.~~ — The chain of custody has not been broken, meaning the device has been within ownership of election judges or employees only during this time;

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

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

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

- ~~(1)a.~~ For instances where the trusted build hash value (MD5 or SHA-1) of the

1 firmware or software can be displayed, VERIFIED, or printed by the device as
2 verified by the State Certification process, the election official SHALL will be
3 required to document and verify that the hash value matches the documented
4 number associated with the Trusted Build for the software or firmware of
5 that device.

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

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
11 remove and secure the memory card following the procedures in
12 section 43.8.1(a) RULE 43.2.1(A). The county clerk and recorder
13 or his or her designee shall follow the State instructions for
14 installing/verifying the trusted build for the specific device. The
15 county clerk and recorder or his or her designee shall install a
16 new, secure memory card into the device, conduct a hardware
17 diagnostics test as prescribed in Rule 11, and proceed to conduct
18 a logic and accuracy test on the machine in full election mode,
19 casting at least 25 ballots on the device. All documentation of
20 testing and chain of custody shall be maintained on file for each
21 specific device.

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

25 (D)iv. THE COUNTY SHALL Set SET the machine to election mode ready
26 for a zero report.

27 (E)vi. Complete necessary reports for the Secretary of State regarding
28 the incident as soon as practicable, but prior to the close of the
29 canvass period for the election REPEALED.

30 (3)e. If the evidence INDICATES THAT THE TAMPERING OCCURRED is after votes
31 have been cast on the device but before the close of polls:

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

34 (B)ii. The county clerk and recorder or his or her designee shall close
35 the election on that device, and perform a complete manual
36 verification of the paper ballots (or V-VPAT Records-RECORDS)
37 to the summary tape printed on the device that represents the
38 record of votes on the memory card.

39 (C)iii. If the totals do not match then only the paper record will be
40 accepted as the official results for that device, and the THE
41 COUNTY CLERK AND RECORDER SHALL RE-SEAL AND SECURE

1 THE device ~~shall be re-sealed, secured~~ and IMMEDIATELY
2 reported THE DISCREPANCY to the Secretary of State
3 ~~immediately~~. The COUNTY MUST NOT USE THE device ~~shall not~~
4 ~~be used~~ for the remainder of the election unless ~~the firmware~~
5 ~~and/or software have been reformatted with~~ the trusted build IS
6 REINSTALLED.

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

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

11 (F)vi. A new secured memory card shall be placed in the device. The
12 county clerk and recorder or his or her designee shall follow the
13 State instructions for installing/verifying the trusted build for the
14 specific device. The county clerk and recorder or his or her
15 designee shall conduct a hardware diagnostics test as prescribed
16 in Rule 11. All documentation of testing and chain of custody
17 shall be maintained on file for each specific device.

18 (G)vii. THE COUNTY SHALL ~~Complete~~ COMPLETE the necessary seal
19 process and documentation to establish the chain of custody for
20 the device and memory card.

21 (H)viii. THE COUNTY SHALL ~~Set~~ SET the machine to election mode ready
22 for a zero report.

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

28 (J)x. ~~Complete necessary reports for the Secretary of State regarding~~
29 ~~the incident as soon as practicable, but prior to the close of the~~
30 ~~canvass period for the election~~ REPEALED.

31 (4)d. If the evidence INDICATES THAT THE TAMPERING OCCURRED ~~is~~ after the
32 close of polls:

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

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

39 (C)iii. If the totals do not match then only the paper record will be
40 accepted as the official results for that device., ~~and the COUNTY~~

1 CLERK AND RECORDER SHALL RE-SEAL AND SECURE THE device
2 ~~shall be re-sealed, secured~~ and IMMEDIATELY reported THE
3 DISCREPANCY to the Secretary of State ~~immediately~~. The
4 COUNTY MUST NOT USE THE device ~~shall not be used~~ for the
5 remainder of the election unless ~~the firmware and/or software~~
6 ~~have been reformatted with the trusted build~~ IS REINSTALLED.

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

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

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

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

20 (H)viii. ~~Complete necessary reports for the Secretary of State regarding~~
21 ~~the incident prior to the close of the canvass period for the~~
22 ~~election~~ REPEALED.

23 (c)43.8.11.4 ~~Prior to the submission of certified results from the county, the county~~
24 ~~clerk and recorder shall provide a written report to the Secretary of State~~
25 ~~addressing the existence or absence of any security issues related to the~~
26 ~~implementation and operation of the voting system. All~~ THE county SHALL MAKE
27 ALL documentation related to the voting system AND FOR EVERY DEVICE USED IN
28 THE ELECTION ~~shall be available for inspection by the Secretary of State~~
29 ~~INSPECTION for all devices used in the election.~~

30 43.8.1243.2.12 THE COUNTY SHALL SUBMIT ~~Any~~ ANY additional physical security procedures
31 not discussed IN THIS RULE ~~in these mandatory procedures shall be submitted~~ to the
32 Secretary of State for approval prior to the election.

33 43.93 The COUNTY ~~designated election official~~ shall submit with the security plan sample copies of all
34 referenced forms, schedules, logs, and checklists.

35 43.4 AMENDMENTS AND REVIEW OF SECURITY PLANS

36 43.4.1 IF NO CHANGES HAVE OCCURRED SINCE THE LAST SECURITY PLAN WAS FILED, THE
37 COUNTY SHALL FILE A STATEMENT TO THAT EFFECT.

38 43.4.2 THE COUNTY SHALL CLEARLY IDENTIFY AND DESCRIBE ANY REVISIONS TO A
39 PREVIOUSLY FILED SECURITY PLAN.

1 43.4.3 THE COUNTY MAY CHANGE THE SECURITY PLAN WITHIN 60 DAYS OF AN ELECTION AS A
2 RESULT OF AN EMERGENCY SITUATION OR OTHER UNFORESEEN CIRCUMSTANCE. THE
3 COUNTY MUST DOCUMENT THE CHANGES AND FILE THE REVISIONS WITH THE SECRETARY
4 OF STATE WITHIN FIVE DAYS OF THE CHANGE.

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

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

9 ~~43.10 Included in the security procedures filed with the secretary of state shall be a section entitled~~
10 ~~“contingency plan.” The contingency plan shall include:~~

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

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

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

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

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

19 ~~43.415~~ Lease, Loan, or Rental of Election Equipment

20 ~~43.415.1~~ Nothing in this Rule ~~shall be construed to require~~ REQUIRES a county clerk to
21 lease, loan, or rent any election equipment to any municipality, special district or other
22 local jurisdiction.

23 ~~43.415.2~~ A county clerk who chooses to lease, loan, or rent any certified election
24 equipment to a municipality, special district, or other local jurisdiction for use in their
25 elections shall follow at least one of the following procedures in order to maintain or
26 reestablish an acceptable chain of custody and appropriate documentation ~~pursuant to~~ IN
27 ACCORDANCE WITH Rule ~~43.8-43.2.1~~.

28 ~~(A)a-~~ After the LOCAL JURISDICTION RETURNS THE certified equipment ~~has been~~
29 ~~returned~~ to the county clerk ~~by the applicable jurisdiction~~, THE COUNTY CLERK
30 MUST REINSTATE OR VERIFY THE TRUSTED BUILD IN ACCORDANCE WITH RULE
31 43.2.11(B)(1) BEFORE use of the equipment IS USED in any primary, general,
32 congressional vacancy, statewide ballot issue (including recall), or special
33 election conducted by the county clerk, ~~reinstatement or verification of the~~
34 ~~trusted build, pursuant to Rule 43.8.11.3(a)~~, shall be completed.

35 ~~(B)b-~~ The county clerk or their deputized representative shall:

36 ~~(1)I-~~ Deliver the certified equipment to the jurisdiction;

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

3 (3)H. Place one or more secure and numbered seals on the voting equipment
4 ~~pursuant to~~ IN ACCORDANCE WITH Rule ~~43.8.2~~ 43.2.2. If during the
5 course of the jurisdiction's election, the designated election official
6 requires removal of a memory card or cartridge as a function of the
7 election process, the county clerk or their deputized representative shall
8 witness and document the removal and proper resealing of the memory
9 card or cartridge; and

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

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

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

24 (1)I. Sign and submit to the county clerk and recorder an affirmation that
25 he/she will ensure the security and integrity of the certified voting
26 equipment at all times;

27 (2)H. Affirm that the use of the certified voting equipment shall be conducted
28 in accordance with Rule 43 and the specific conditions for use of the
29 certified voting equipment; and

30 (3)H. Agree to maintain all ~~chain of custody~~ CHAIN-OF-CUSTODY logs for the
31 voting device(s).

32 43.445.3 Upon return of the certified voting equipment to the county clerk and recorder,
33 the county clerk ~~shall~~ IS ~~not be~~ required to verify the trusted build if the documentation
34 and chain of custody DOES NOT support the proper maintenance of the trusted build
35 software and chain of custody.