

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 44.3.1713 pertaining to testing )  
of vote tabulation machines )

TO: All Concerned Persons

1. On September 24, 2021, the Secretary of State published MAR Notice No. 44-2-246 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1200 of the 2021 Montana Administrative Register, Issue Number 18.

2. On October 14, 2021, a public hearing was held on the proposed amendment of the above-stated rule. A written comment was received during the public comment period.

3. The Secretary of State has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

44.3.1713 UNIFORM PROCEDURES FOR USING VOTING SYSTEMS

(1) For each voting system approved under 13-17-101, MCA, the system must comply, as applicable, with the following procedures specified in the instruction manuals, user guides, and technical manuals provided by the manufacturer and distributor of the system, as well as the election judge handbook provided by the Office of the Secretary of State (except in cases in which those materials conflict with state laws or rules, in which case the laws or rules shall apply):

(a) through (d) remain as proposed.

(e) the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417, MCA; and

(f) ~~except as required under (g),~~ testing and certification of voting systems pursuant to 13-17-212, MCA; and

(i) Except when (ii) is applicable, including a random test must be conducted by a county election administrator or designee of 10% of each type of voting systems, a minimum of one per county, on election day, to validate the accuracy of voted paper ballots with the voting system results; ~~and~~

~~(g) (ii) County election administrators choosing to start if automatic tabulation begins the day before the election pursuant to 13-13-241(7)(a), MCA, an election administrator shall publicly~~ must test all used central count vote tabulation machines no more than 30 days prior to the election the day before the election, before counting begins.

AUTH: 13-17-211, 13-17-212, MCA  
IMP: 13-17-211, 13-17-212, MCA

4. The Secretary of State has considered the comment received. A summary of the comment and SOS's response is as follows:

COMMENT #1: A commenter said the counties should be required to test their equipment before beginning their official count on the day before the election and counties should be allowed to use all the machines to do the early count. The commenter suggested that counties that do early tabulation should not be required to reserve a machine to test on election day.

RESPONSE #1: The Secretary of State agrees and has revised the amendment to reflect the recommended changes.

/s/ AUSTIN JAMES  
Austin James  
Rule Reviewer

/s/ ANGELA NUNN  
Angela Nunn  
Chief Deputy Secretary of State

Dated this 18th day of January, 2022.