

## CHAPTER 8220

### SECRETARY OF STATE

### VOTING MACHINES

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| <p><b>SCOPE AND STANDARDS</b></p> <p>8220.0050 CONDUCT OF ELECTIONS.</p> <p>8220.0150 MINIMUM STANDARDS.</p> <p>8220.0250 DEFINITIONS.</p> <p><b>EXAMINATION AND CERTIFICATION</b></p> <p>8220.0350 APPLICATION.</p> <p>8220.0450 ACCEPTANCE DEMONSTRATION.</p> <p>8220.0550 TESTING AND EXAMINATION.</p> <p>8220.0650 APPROVAL OF MACHINES OR SYSTEMS.</p> <p><b>PREPARATION AND TESTING OF ELECTION PROGRAMS</b></p> <p>8220.0750 PREPARATION OF COMPUTER PROGRAMS.</p> <p>8220.0800 PROGRAM PREPARATION BONDS.</p> <p>8220.0850 SCHEDULE FOR COMPLETING PROGRAMS.</p> <p>8220.0950 EDIT LISTINGS.</p> <p>8220.1050 PREPARATION OF TEST DECK OR BALLOT IMAGE.</p> <p>8220.1150 TEST BALLOTS.</p> <p>8220.1250 DOCUMENTING TEST BALLOTS.</p> <p>8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.</p> <p>8220.1450 DUTIES UPON COMPLETION.</p> <p>8220.1550 PUBLIC ACCURACY TEST.</p> <p>8220.1650 ADDITIONAL TEST DECKS.</p> <p>8220.1750 CERTIFICATION OF PUBLIC ACCURACY TEST.</p> <p>8220.1850 SECURING COMPUTER PROGRAMS.</p> <p>8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE.</p> | <p><b>SECURITY OF COMPUTER SYSTEMS AND PROGRAMS</b></p> <p>8220.2050 ISOLATION FROM OTHER INFLUENCES.</p> <p>8220.2150 PREPARATION BEFORE TESTING SYSTEM.</p> <p>8220.2250 SUPPORT SOFTWARE.</p> <p>8220.2350 PHYSICAL PROTECTION OF OBJECT CODES.</p> <p>8220.2450 LABELING OF DISCS AND TAPES.</p> <p>8220.2550 CONTROL OF SYSTEM CONTROL CARDS.</p> <p>8220.2650 LOGGING OF OPERATIONS.</p> <p>8220.2750 SEPARATION OF COMPUTER ROOM DUTIES.</p> <p>8220.2850 CONTROL OF COMPUTER PROGRAM CHANGES.</p> <p><b>BALLOT CARDS</b></p> <p>8220.2950 APPLICABILITY.</p> <p>8220.3050 PREPARATION OF BALLOT CARDS.</p> <p>8220.3150 BALLOT ENVELOPES.</p> <p>8220.3250 VOTING INSTRUCTIONS ON BALLOT.</p> <p>8220.3350 IDENTIFYING VOTING OR MARKING DEVICES.</p> <p>8220.3450 BALLOT LABEL PAGES.</p> <p>8220.3550 MASKS.</p> <p>8220.3650 COMPARING LABELS TO EDIT LIST.</p> <p>8220.3750 TEST USE OF DEMONSTRATION BALLOT CARD.</p> <p>8220.3850 CERTIFICATE OF DEVICE PREPARATION.</p> <p>8220.3950 BALLOT CARDS.</p> <p>8220.4050 ADDITIONAL PRECINCT SUPPLIES.</p> <p>8220.4150 PRECINCT HEADER CARD.</p> <p>8220.4250 INSTRUCTION POSTERS.</p> |
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#### SCOPE AND STANDARDS

##### 8220.0050 CONDUCT OF ELECTIONS.

Except as provided in Minnesota Statutes or in parts 8220.0050 to 8230.4250, elections shall be conducted in the manner prescribed for precincts using paper ballots in the Minnesota election law.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

##### 8220.0100 [Repealed, 10 SR 1690]

##### 8220.0150 MINIMUM STANDARDS.

Parts 8220.0050 to 8230.4250 set minimum standards for procedures in the use of electronic voting systems. An election jurisdiction may by resolution require additional procedures.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

##### 8220.0200 [Repealed, 10 SR 1690]

##### 8220.0250 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 8220.0150 to 8230.4250, terms defined in Minnesota Statutes, section 206.56 have the meanings given them in that section, and the following terms defined in this part have the meanings given them.

Subp. 2. **Backup program; duplicate program.** "Backup program" or "duplicate program" means an identical computer program for vote recording and vote tallying to be prepared and tested and held in readiness should it be needed to replace the computer program prepared for use in the election.

Subp. 3. **Ballot envelope.** "Ballot envelope" means a paper container into which the voted ballot is inserted by a voter.

Subp. 4. **Ballot image.** "Ballot image" means a corresponding representation in electronic form on tape or disc of the punch or mark pattern of a voted ballot.

Subp. 5. **Bit-for-bit comparison.** "Bit-for-bit comparison" means a method for comparison of machine encoded characters.

Subp. 6. **Chad.** "Chad" means a prescored portion of a ballot that is removed from the ballot to indicate a vote.

Subp. 7. **Computer program.** "Computer program" means a logically arranged set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

Subp. 8. **Console log; computer log; log book.** "Console log," "computer log," and "log book," mean computer-generated listing of actions performed by the computer, including both normal and abnormal operations.

Subp. 9. **Counting center.** "Counting center" means a location where an electronic system is used for the tabulation of ballots.

Subp. 10. **Damaged ballot.** "Damaged ballot" means a valid ballot cast by a voter that is mutilated at the precinct, in transportation to the counting center, or in processing at the counting center to the extent that it cannot be entered into the computer and must be duplicated.

Subp. 11. **Demonstration ballot.** "Demonstration ballot" means a ballot of a distinctive color used to instruct voters in the use of the voting device.

Subp. 12. **Demonstration model.** "Demonstration model" means an approved copy of the voting device in use in a precinct containing ballot labels representing offices and containing fictitious names, to demonstrate to voters the method of voting.

Subp. 13. **Detachable stub.** "Detachable stub" means a two-part section of each ballot card, each part of which is printed with the identical number, which is part of a serial numbering of all ballot cards assigned to that precinct.

Subp. 14. **Duplicate ballot card.** "Duplicate ballot card" means a ballot card on which the word "DUPLICATE" is printed, stamped, or written and which may be of a different color or to which election judges transfer a voter's selections from the original ballot card when necessary.

Subp. 15. **Edit listing.** "Edit listing" means a computer-generated listing showing the names, rotation sequence, and ballot position numbers for each candidate as they appear in the computer program for each precinct.

Subp. 16. **Election jurisdiction.** "Election jurisdiction" means any municipality, township, county, or special election district holding original responsibility for an election or part of an election.

Subp. 17. **Hardware.** "Hardware" means the mechanical, electromechanical, and electronic equipment used to record and tabulate votes.

Subp. 18. **Header cards.** "Header cards" means data processing cards which contain the necessary data to identify the precinct of the following ballot cards to the computer.

Subp. 19. **Lever machine.** "Lever machine" means a direct recording mechanical device or system in which a vote is cast by moving a lever.

Subp. 20. **Operating system.** "Operating system" means a collection of programs that control the overall operation of a computer system.

Subp. 21. **Overvote.** "Overvote" means a condition of a voted ballot in which more votes have been cast for an issue or office than the number of votes that the voter is lawfully entitled to cast.

Subp. 22. **Precinct certification.** "Precinct certification" means the certification supplied by the election jurisdiction to each precinct on which to record unusual occurrences at the precinct, the number of voters who registered on election day, the number who voted, and other information requested by the election jurisdiction or the secretary of state.

Subp. 23. **Programmer.** "Programmer" means a person or commercial vendor designated by an election jurisdiction to prepare the software to record and tally votes for an election.

Subp. 24. **Public accuracy test.** "Public accuracy test" means a public test conducted prior to election day for the purpose of demonstrating the accuracy of the computer program and computer which will be used to count the ballots and to demonstrate and explain the testing procedures being used to determine the accuracy.

Subp. 25. **Seal.** "Seal" means a numbered metal device or other device used to secure hardware, software, computer programs, voting devices, or transfer cases.

Subp. 26. **Self-contained voting station.** "Self-contained voting station" means a unit that contains a voting device enclosed beneath and on three sides and lighted; when assembled the unit creates one individual voting station.

Subp. 27. **Software.** "Software" means programs, languages, or routines that control the operations of a computer used to record and tabulate votes.

Subp. 28. **Source code.** "Source code" means a high-level language in which a computer program is written.

Subp. 29. **Stylus.** "Stylus" means an instrument to be used by a voter to punch out a prescored position of a ballot.

Subp. 30. **Test deck.** "Test deck" means a set of preaudited mock voted ballot cards used to determine that the computer and software to be used in the election count the votes.

Subp. 31. **Transfer case.** "Transfer case" means a container for transporting ballots to the counting center.

Subp. 32. **Unassigned locations.** "Unassigned locations" means voting positions not programmed or assigned to receive an indication of votes in the election in progress.

Subp. 33. **Undervote.** "Undervote" means a condition of a voted ballot in which fewer votes have been cast for an issue or office than permitted by law.

Subp. 34. **Valid vote.** "Valid vote" means a voted ballot cast according to the instructions for the system in keeping with the Minnesota election law and parts 8220.0050 to 8230.4250.

Subp. 35. **Vendor.** "Vendor" means an individual or organization other than an election jurisdiction supplying any element of a lever voting machine or electronic voting system, including but not limited to hardware, software, and programming services.

Subp. 36. **Vote.** "Vote" means an indication of voter intent counted by mechanical or electronic methods.

Subp. 37. **Vote-recording medium.** "Vote-recording medium" means the material or its configuration on which data are recorded, such as paper, tape, cards, or magnetic tape.

Subp. 38. **Write-in.** "Write-in" means a vote for a candidate whose name does not appear on the official ballot for that office.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.0300** [Repealed, 10 SR 1690]

## EXAMINATION AND CERTIFICATION

### 8220.0350 APPLICATION.

An application by a vendor pursuant to Minnesota Statutes, section 206.57, for examination of a lever voting machine or electronic voting system must be accompanied by the following:

A. an initial deposit, in an amount set by the secretary of state, toward the examination fee and a signed agreement that the vendor will pay all costs incurred by the secretary of state, the vendor, and any designees of the secretary of state in accomplishing the examination;

B. complete specifications of all hardware, firmware, and software;

C. all technical manuals and documentation related to the machine or system;

D. complete instructional materials necessary for the operation of the equipment by election jurisdictions and a description of any training available to users and purchasers;

E. a list of all state election authorities that have tested and approved the machine or system for use;

F. a list of all election jurisdictions where the machine or system has been used for elections;

G. a description of any support services offered by the vendor and of all peripheral equipment that can be used in conjunction with the machine or system;

H. recommended procedures for use of the machine or system at Minnesota elections including procedures necessary to protect the integrity of the election;

I. specifications for materials and supplies required to be used with the machine or system;

J. explanation of the level of technical expertise required to program or prepare the machine or system for use at an election; and

K. certification of conformance or explanation of variances from any standards for voting equipment recommended by the Federal Election Commission.

The vendor may submit additional material including test reports and evaluations by other states, election jurisdictions, and independent testing agencies. The secretary of state shall make a preliminary review of the application. If the secretary of state determines from the preliminary review that the machine or system obviously does not meet provisions of Minnesota election laws, the vendor may withdraw the application and the secretary may refund the deposit.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.0400** [Repealed, 10 SR 1690]

**8220.0450 ACCEPTANCE DEMONSTRATION.**

The vendor shall train a designee of the secretary of state in the preparation and operation of the machine or system. The training must be at least as extensive as the training required for an election jurisdiction to be able to prepare and use the machine or system at Minnesota elections.

The acceptance demonstration must be provided by the vendor and attended by designees of the secretary of state. The vendor is responsible for demonstrating that the machine or system can meet all requirements of Minnesota election law and parts 8220.0050 to 8230.4250. In the acceptance demonstration, the vendor of the machine or system must demonstrate the following concerning the machine or system:

A. its storage requirements;

B. its speed of operation under conditions that simulate the scope and length of actual election ballots;

C. full audit capability, with an audit trail, in the case of an electronic voting system, which includes a printout of overvotes and undervotes for each office and issue, and with the undervotes recorded directly from the ballots and not determined by subtraction of totals from nonovervoted ballots;

D. all special parameter alterations that can be programmed;

E. all design specifications;

F. maximum numbers of precincts, offices and issues, and candidates per office which can be handled;

G. the production of reports which include vote totals and all statistics and other information required by the secretary of state;

H. simulation of vote counting involving a configuration of the largest number of voters, precincts, offices, and candidates with which the machine or system is expected to be used, which vote counting includes ballots showing overvotes, undervotes, and invalid votes as well as those with no overvotes or marks in unassigned locations, in many different combinations, and demonstrates rotation sequences and the ability to deal with partisan, nonpartisan, and proposal sections of the ballot independently;

- I. accuracy of vote counting and procedures or process for testing accuracy;
- J. provisions for maintaining the security and integrity of elections; and
- K. provisions for write-in votes.

The vendor shall identify all hardware configurations with which software is intended to operate and shall provide an acceptance demonstration for every hardware and software configuration for which certification for use in Minnesota is requested. The secretary of state may provide additional ballots or test decks for the acceptance demonstration.

The acceptance demonstration and training of the secretary of state's designee may be accomplished either at the vendor's site or at the office of the secretary of state.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### 8220.0500 [Repealed, 10 SR 1690]

#### 8220.0550 TESTING AND EXAMINATION.

The secretary of state shall investigate and evaluate the experience of other states and election jurisdictions using the machine or system. The secretary of state shall review the results of the acceptance demonstration and perform additional tests as the secretary deems necessary. The additional tests may include field testing at simulated or actual elections, technical evaluation of the hardware and software by a designee of the secretary of state, and experimental use as provided in Minnesota Statutes, section 206.81. In determining the need for and extent of additional examination, the secretary of state shall consider the record of use in other states and the extent and experience of use in Minnesota of similar machines or systems.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### 8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

- A. paid all costs of the examination;
- B. certified that the vendor and any agent acting on behalf of the vendor will offer the machine or system for use or sale only in accordance with Minnesota Statutes and parts 8220.0050 to 8230.4250 and any stipulations of the certification;
- C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined;
- D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and
- E. deposited with the secretary of state a bond in the amount of \$5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form and execution of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. **Decertification.** If a voting machine or system no longer meets the standards of Minnesota statutes or parts 8220.0050 to 8230.4250, the secretary of state may withdraw certification of the voting machine or system. The vendor must be given written notification of intent to withdraw certification and may within ten days of receipt of the notification submit a written request to the secretary of state for a contested case hearing under Minnesota Statutes, sections 14.57 to 14.62.

Subp. 3. **Forfeiture of bond.** If the secretary of state determines that a vendor has offered for sale or use at an election a voting machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or system was certified, the bond required by subpart 1, item E, must be forfeited. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. No machine or system may be subsequently offered for sale or use at an election by the vendor who has received a notice of intent to forfeit the bond or whose bond has been forfeited, until the vendor has submitted an additional bond in the amount of \$5,000. The secretary of state shall notify each official on the user list of a receipt, forfeiture, or restoration of these bonds.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 12 SR 1712; 12 SR 2426*

## PREPARATION AND TESTING OF ELECTION PROGRAMS

### 8220.0750 PREPARATION OF COMPUTER PROGRAMS.

Computer programs must be prepared so as to tabulate accurately each voter's choices for all candidates, offices, and measures for which the voter is lawfully entitled to vote in conformity with the laws of Minnesota and parts 8220.0050 to 8230.4250.

Computer programs must include instructions requiring that machine-readable precinct identification be required on all ballot cards. Two identical header cards may precede the deck of ballot cards of each precinct. The program may provide that if two identical header cards do not appear in front of the ballot cards of a precinct, no counting of ballots for that precinct may take place.

A data processing card may follow the ballots of each precinct instructing the computer that all ballots of the precinct have been counted. The program may provide that if header cards contain instructions to the computer that all ballots of the preceding precinct have been counted, no separate end card is needed.

The vote tabulation portion of the computer program must be prepared as follows:

A. In nonpartisan races in all elections and in partisan primary elections, the computer program must reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballots in the various precincts.

B. The computer program must count valid votes cast by a voter for candidates for an office.

C. The computer program must count valid votes cast by a voter for or against any question.

D. The computer program must not count the votes cast by a voter for an office or question if the number of votes cast exceeds the number which the voter is entitled to vote for on that office or question, but it must record that there is an overvote condition as referred to in part 8220.0450, item C.

E. The computer program must ignore marks and punches in a ballot card in unassigned locations; these marks or punches must have no effect on any portion of the ballot.

F. For the purpose of programming, the partisan, nonpartisan, and proposal sections of the ballot are independent ballots; no action of a voter on one section of the ballot may affect the voter's action on another section of the ballot.

G. In partisan primary elections, the computer program must count the votes recorded by a voter for candidates in one political party only and reject all of the partisan section of the ballot if votes are cast for candidates of more than one political party, but count valid votes in the nonpartisan section of the ballot.

H. In partisan primary elections the computer program must check for the situation of a voter casting votes for candidates of more than one political party prior to checking for overvote conditions.

I. If the counting equipment can examine and return a ballot card to the voter before counting it, the computer program must check for and reject without counting any ballot card with an overvote or, at a partisan primary, with votes cast for candidates of more than one party. When the ballot card is returned to a voter, an error message must indicate the type of defect but not the specific office or question where the defective condition was found.

J. When a write-in vote is indicated by a machine-readable punch or mark, a punch or mark indicating a write-in is a vote for the purpose of determining if an overvote condition exists. Except where an overvote condition for the office exists, the computer program must record that a write-in has been indicated. The program must count and record valid votes on the ballot for all other offices and questions before a ballot with a write-in recorded is separated from ballots with no write-ins recorded. The program must report, by office, the total number of write-ins recorded.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 11 SR 454*

### 8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of \$5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. **Forfeiture of bonds.** If the secretary of state determines that a program used with an electronic voting system was not prepared in the manner required by parts 8220.0050 to 8230.4450 and the written instructions of the official responsible for preparation of the ballots, the bond must be forfeited to the extent necessary to cover actual expenses resulting from the failure of the program. The secretary of state shall determine within 45 days after receiving notification of the failure of a program and a request for reimbursement of expenses resulting from the failure of the program from the appropriate election officials, what actual costs were incurred as a result of the program failure. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. If required to meet actual expenses in excess of the amount of the bond posted under subpart 1, the secretary of state shall use, to the extent necessary, any bond posted by the vendor under part 8220.0650 as compensation to the election jurisdiction. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

**Statutory Authority:** *MS s 206.57 subd 1*

**History:** *12 SR 2426*

### 8220.0850 SCHEDULE FOR COMPLETING PROGRAMS.

No later than five days after candidates' names are certified by the secretary of state, the election jurisdiction responsible for requesting the computer program must supply any information such as candidates' names and rotation to the individuals designated to prepare the computer program.

The computer program for any election and an exact duplicate of the program for use as backup must be completed and delivered to the election jurisdiction or the county auditor in charge of a common counting center at least 14 days prior to the election. When state offices or questions are on the ballot, a second duplicate must be prepared, as provided in part 8220.1950. Instructions containing the necessary information, steps, and procedures required to operate the computer program must be prepared to accompany the original program and the duplicate programs. There must be at least two copies of the instructions for each

computer facility. It is the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.0950 EDIT LISTINGS.**

The operators shall prepare at least two edit listings from the computer program showing candidates' names and respective ballot position numbers as they appear in the computer program for each precinct. The edit listings must be delivered to the appropriate election jurisdiction at least 14 days prior to the election.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.1000** [Repealed, 10 SR 1690]

#### **8220.1050 PREPARATION OF TEST DECK OR BALLOT IMAGE.**

The election jurisdiction requesting the computer program must prepare a test deck of ballot cards to be used to determine that the computer and the computer program will correctly count the votes cast for all offices and all proposals in compliance with the Minnesota election law.

Simulated ballots through use of ballot images on tape or disc may be used to evaluate the logic of the computer program.

The test deck or ballot image must include ballots involving no overvotes or marks in unassigned locations as well as ballots involving overvotes, undervotes, and invalid votes in many different combinations.

The test deck or ballot image must test in a manner commensurate with the logic of the computer program, the capabilities of the program, and storage to correctly tally the maximum number of votes which might be cast for any office or question in the election.

The test deck must conform to part 8220.1150. A test deck must be prepared specifically for each election.

The test deck or ballot image prepared must consist of a preaudited configuration of ballots to record a predetermined number of valid votes for each candidate and issue.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.1100** [Repealed, 10 SR 1690]

#### **8220.1150 TEST BALLOTS.**

All test ballots must be marked "TEST."

Ballots must be prepared having votes in excess of the number allowed by law for each office and proposal appearing on the ballot.

For district offices in which the number of candidates appearing on the ballot for that office varies by district, test ballots must be prepared with the number of votes allowed by law for that office in that district and also must include votes in positions which are assigned to that office for which no candidate's name appears in those positions for that district.

In partisan primary elections test ballots must be prepared to check the program for splitting tickets. Test ballots must be prepared with votes appearing in the same ballot for candidates of opposite political parties, nonpartisan candidates, and proposals. At least one ballot must be prepared with votes for one party and including votes for a nonpartisan office in excess of the number permitted by law.

Test ballots must be prepared in which votes appear in positions other than those used for candidates or proposals. In preparing the test deck or ballot image a number of the ballots must be voted to include valid votes in the partisan, nonpartisan, and proposal sections of the ballot.

Blank ballots in which no positions have been voted must be included in the test deck or ballot image.



**8220.1150 VOTING MACHINES**

48

At least one test ballot must be prepared with votes in all positions where there is a candidate or measure on the ballot.

A duplicate of the test deck must be prepared to be used with the duplicate or backup computer program.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *10 SR 1690; 17 SR 8*

**8220.1200** [Repealed, 10 SR 1690]

**8220.1250 DOCUMENTING TEST BALLOTS.**

A documentation, record, chart, or listing must be prepared indicating the punches or marks recorded in the test ballots and whether the punches or marks are valid or invalid.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 11 SR 454*

**8220.1300** [Repealed, 10 SR 1690]

**8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.**

Prior to the public accuracy test, the election jurisdiction providing the computer programs shall test the computers and programs to ascertain that they will correctly count the votes for all offices and measures. The computer programs must be tested on all precincts.

The election jurisdiction requesting the computer programs shall compare the edit listing against the ballots of all precincts to ascertain that the appropriate ballots are in each precinct, and the ballot position numbers for each candidate and proposal appearing on the ballot agree with those recorded on the edit listing for each precinct. Each election jurisdiction shall make a certificate as to the above matters and file it with the county auditor.

The test must be conducted using the test deck or ballot image prepared under the direction of the election jurisdiction, and the results must be compared against the predetermined results of the test deck or ballot image. For the purpose of this test, the test deck may be reproduced onto standard data processing cards.

All prom packs, memory packs, and similar devices containing the election program must be secured with a metal seal and a certificate must be prepared indicating the seal number.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 11 SR 454*

**8220.1400** [Repealed, 10 SR 1690]

**8220.1450 DUTIES UPON COMPLETION.**

When an errorless count has been made on all precincts, the election jurisdiction providing the computer program must:

A. secure all computer programs, including the object code, all support software used except the operating system, test decks, and predetermined results of the test decks, in a metal container sealed with a metal seal and stored in a secured area that is subject to normal computer temperature humidity restraints;

B. prepare a certificate that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction and that the results agree with the predetermined results of the test deck, which certificate must contain the seal number that was used to seal the metal container and be attached to the computer results of the test; and

C. deliver the sealed metal container and the certificate to the county auditor.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.1550 PUBLIC ACCURACY TEST.**

A public accuracy test must be held within five days prior to the election for the purpose of demonstrating the accuracy of the computer programs and computers to be used at the

election. The public accuracy test must be conducted according to Minnesota Statutes, section 206.73.

The time and place of the public accuracy test must be designated by the election jurisdiction providing the computer program, which must give at least 48 hours' public notice of the time and place of the test by publication in official newspapers, by posting a notice, and by notification to the county or legislative district chair of each major political party.

The test must be open to the public. The chief election official of the election jurisdiction shall explain the methods and test procedures used to determine the accuracy of the computer programs. This will include submitting as public record the certificate prepared in accordance with part 8220.1450 that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction.

The sealed container containing the computer programs, test deck, predetermined results, and header cards must be opened and the computer programs and computers tested to determine their accuracy on the computer on which they are to be used on election night. The initial testing of the computers and programs must be with the test deck or ballot image prepared under the direction of the election jurisdiction. The number of precincts to be tested is at the discretion of the election jurisdiction.

The backup computer program prepared and delivered according to part 8220.0850 must be tested on the computer on which it would be used on election night. The test decks used in these procedures must be the ones prepared in accordance with parts 8220.0750 to 8220.1950. Any test cards made under parts 8220.0750 to 8220.1950 must be marked "TEST."

If an error is detected in any part of the testing, the cause must be ascertained, the error corrected, and an errorless count must be made on all precincts. At the discretion of the election jurisdiction, the meeting may be adjourned to a time and date certain.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.1650 ADDITIONAL TEST DECKS.**

Upon request the secretary of state must be provided a test deck for any state, county, municipal, or school district election computer program, in which case a test deck of at least 50 blank ballots must be delivered to the secretary of state with directions for its use. The state chair of a major political party or designee may obtain a test deck for use at the public accuracy test. The secretary of state may request a test deck from a jurisdiction no later than 15 days prior to the election. The use of test decks provided by the secretary of state or a major political party does not substitute for the requirement for an election jurisdiction to prepare and use a test deck in accordance with parts 8220.1050 and 8220.1150.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *10 SR 1690; 17 SR 8*

#### **8220.1750 CERTIFICATION OF PUBLIC ACCURACY TEST.**

After the completion of the public accuracy test and an errorless count has been made, the election jurisdiction must certify the results of the test conducted, signed by the witnesses specified in Minnesota Statutes, section 206.73, and attached to or written on the computer results of the public accuracy test.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.1850 SECURING COMPUTER PROGRAMS.**

Immediately after certifying the results of the public accuracy test, the election jurisdiction must secure all computer programs, including the object code, software utilized, test decks, certified computer results of the test, and the predetermined results in a metal container which must be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. If a precinct ballot counter is used to count ballots, it must be sealed with the memory pack containing the election programs inside. Attached to or inside the con-

tainer must be a certificate describing its contents and on which the number of the seal has been recorded. The certificate must be signed by at least two witnesses as specified in Minnesota Statutes, section 206.73, and if attached to the container in a plastic envelope it must be attached so that it cannot be removed without breaking the seal.

All computer programs, test decks, and other related materials must be clearly identified as to the computer on which they were tested and must be used on no other computer until tested in accordance with parts 8220.1550 to 8220.1850.

The election jurisdiction must immediately deliver to the county auditor or the auditor's designee the metal case containing the computer programs and test decks which are to be used to tabulate the results of the election. The county auditor shall retain and secure the programs and deliver them to the counting center on election night no earlier than 6:00 p.m. The container containing backup or duplicate computer programs and related material must be delivered to and secured by the county auditor. It must be the responsibility of the county auditor to store the original and duplicate or backup computer program in separate locations.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE.**

When state offices and questions are to be voted on, the person preparing the computer program shall deliver an exact duplicate or an exact electronic equivalent of the program to the secretary of state at least three days prior to the election. The program must be sealed so that it cannot be opened without breaking the seal. Attached to the exterior of the sealed program must be a certificate signed by the person who prepared the program naming the election jurisdiction for which the program was prepared and stating that the program is an exact duplicate of the program provided to the election jurisdiction and that the program was prepared in accordance with Minnesota statutes and parts 8220.0050 to 8230.4250 and the instructions of the election jurisdiction requesting the program.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.09; 204B.25; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 12 SR 2215*

**8220.2000** [Repealed, 10 SR 1690]

### **SECURITY OF COMPUTER SYSTEMS AND PROGRAMS**

#### **8220.2050 ISOLATION FROM OTHER INFLUENCES.**

A computing system must be set up so that the vote-tallying procedures will function in isolation from other influences while being tested or run.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2100** [Repealed, 10 SR 1690]

#### **8220.2150 PREPARATION BEFORE TESTING SYSTEM.**

Before beginning vote-tallying computer program testing or running on a computer also used for other purposes, the election jurisdiction must make certain that computer programs are not influenced by extraneous peripheral equipment or programs. Memory locations that are to remain accessible to the system, except those minimally required to load a new operating system, if any, must be erased. Active measures must be undertaken to assure that all tapes and discs to be used that are supposed to be initially blank are actually blank, except for machine-readable inventory identifiers, and have no defects.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2200** [Repealed, 10 SR 1690]

**8220.2250 SUPPORT SOFTWARE.**

All the support software used with the vote-tallying computer programs must be maintained on media under the control of the election administration.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2300** [Repealed, 10 SR 1690]

**8220.2350 PHYSICAL PROTECTION OF OBJECT CODES.**

Master copies of all computer programs including support software and application programs must be sealed and retained in secured locations, separate from the location of working copies. Once generated the master copy must be used in a read-only mode. No writing must be done on the storage medium of the master copy. Before use of the working copy it must be compared bit-for-bit against the master copy. Any difference must be explainable.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2400** [Repealed, 10 SR 1690]

**8220.2450 LABELING OF DISCS AND TAPES.**

Discs and tapes employed for any vote tallying purpose must have both human-readable and machine-readable labels. When the machine-readable label is read by the operating system, a halt in further operation must occur until the computer operator enters the human-readable label. A match between the two labels must precede any further computer operation.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2500** [Repealed, 10 SR 1690]

**8220.2550 CONTROL OF SYSTEM CONTROL CARDS.**

Punched cards used for modification of operating system conditions must have a use code and version number punched in identification fields of the cards. Each card must be checked for proper use and version when read by the operating system, and the effect of the card on system operation must be reported on the system output printer.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2600** [Repealed, 10 SR 1690]

**8220.2650 LOGGING OF OPERATIONS.**

The operating system of the computer must be programmed to report automatically on the system printer all actions taken by the operators to change conditions and their times of occurrence. These actions may include mounting and dismounting tapes, connecting or removing peripherals, inserting data, or changing control switch settings.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2700** [Repealed, 10 SR 1690]

**8220.2750 SEPARATION OF COMPUTER ROOM DUTIES.**

A basic principle of internal control is to divide the execution of critical functions among two or more persons. One individual must not be totally responsible for a given activity, such as computer operation.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2800** [Repealed, 10 SR 1690]

**8220.2850 CONTROL OF COMPUTER PROGRAM CHANGES.**

Every change to a computer program used for vote tallying and under control of the election jurisdiction, even those involving only one statement, must be authorized, approved, and documented by the responsible authority of the election jurisdiction.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2900** [Repealed, 10 SR 1690]

**BALLOT CARDS****8220.2950 APPLICABILITY.**

Parts 8220.3050 to 8220.4250 apply to punch card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3000** [Repealed, 10 SR 1690]

**8220.3050 PREPARATION OF BALLOT CARDS.**

All ballot cards used in an election must have attached by perforation a detachable stub on which duplicate numbers must be printed in consecutive order. The words "OFFICIAL BALLOT CARD" must be printed or stamped on the face of the detachable stubs. The ballot card must have a corner cut on one corner. The following statement must be printed or stamped on the back of the stub of all official ballot cards in bold face capital letters:

"STOP  
WRONG SIDE  
TURN CARD OVER"

The precinct number designation must be printed, stamped, or written and punched on each ballot card used in an election so as to identify in which precinct it originated. In the case of a combination ballot card and write-in ballot, the portion of the ballot for write-ins must contain instructions and spaces for write-ins. Numbers of the offices to be voted for and of the candidates for those offices must be printed on the ballot cards and on the ballot labels so that the voter may review all choices before leaving the voting booth or station.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3100** [Repealed, 10 SR 1690]

**8220.3150 BALLOT ENVELOPES.**

The ballot envelope must be of sufficient size and construction so that when the ballot is inserted in it all portions indicating voting marks are hidden from view. Instructions must be printed on the ballot envelope and include the following:

"After you have voted, check your ballot with the ballot label to be sure that your vote is recorded for the candidate or question of your choice.

Insert ballot in this envelope with the stub exposed.

Return this envelope with the ballot enclosed to the election judge.

If you spoil your ballot or if you make a mistake in voting, return it to the election judge and receive another ballot."

Where write-in votes are not written on the ballot card, the inside flap of the envelope must contain language which clearly indicates that this is the place to vote for write-in candidates. It must contain the following language: "A write-in vote will not be counted unless it includes the name of the person voted for and the title of the office."

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3200** [Repealed, 10 SR 1690]

**8220.3250 VOTING INSTRUCTIONS ON BALLOT.**

Voting instructions must be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions must be printed as to where the voter is to proceed to continue voting. Additional instructions which conform with the election laws may be printed on the ballot labels when deemed advisable so as to assist the voter in casting a ballot.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3350 IDENTIFYING VOTING OR MARKING DEVICES.**

All devices must be identified as to the precinct in which they will be used.

The identifying number of the device and the seal number used to seal the ballot label pages assembly to the device must be recorded on the precinct certification for the precinct in which the device will be used. The election official who sealed the machine shall also sign the certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3450 BALLOT LABEL PAGES.**

All ballot label pages must have a crimp hinge with locking spurs attached for insertion and positioning in the ballot frame. Ballot label pages attached by tape to a rod or which are placed into a clear plastic envelope through which a rod is inserted are not allowed.

A ballot label pages assembly must be inserted and sealed into each device so that the ballot label pages assembly cannot be removed without breaking the seal. Flat metal or wire seals must be used for this purpose. On devices which do not have permanent rivets on the back or sides which prevent the removal of the ballot label pages assembly, a second seal must be used so that the ballot pages assembly cannot be removed without breaking the seal.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3550 MASKS.**

If a device uses masks, the official in charge of the election jurisdiction must prepare or cause to be prepared the masks to be used. The masks must have holes punched in appropriate positions for which the elector will be entitled to vote and in no others.

The ballot label pages of each voting device must be examined to ascertain that holes in the mask appear directly opposite each arrow and that no other holes appear in the mask and that the ballot label pages are in proper sequence.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3650 COMPARING LABELS TO EDIT LIST.**

The ballot labels in each voting device of a precinct must be compared against the edit listing or sample ballot for that precinct to ascertain that the offices, candidates' names, and ballot position numbers are the same and appear in the same position.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3750 TEST USE OF DEMONSTRATION BALLOT CARD.**

Operation of each voting device must be tested by inserting a demonstration ballot card and voting for each candidate and proposition appearing on the ballot. The ballot card must then be examined to ensure that each received a clear punch or mark.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3850 CERTIFICATE OF DEVICE PREPARATION.**

Subpart 1. **Preparing devices.** The election official in charge of the election jurisdiction shall prepare the voting devices so that in every particular they will meet the requirements for voting and counting at the election.

Subp. 2. **Certification.** When a voting device has been prepared for the election, the official in charge of the election jurisdiction shall make a certificate in writing which must be filed with the county auditor. This certificate must contain the precinct number, the identifying number of the device, and the numbers of the metal seals used to seal the device and state that the ballot labels have been compared against the edit list or sample ballot for that precinct, that the candidates' names and ballot numbers agree and appear in the same position, and that the device has been properly prepared and tested.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3950 BALLOT CARDS.**

The municipal clerk or county auditor shall package and seal or place into a transfer case the ballot cards for each precinct. The package or transfer case must contain a certificate signed by the clerk or auditor setting forth the number of ballots contained and that the ballots were counted and sealed by the auditor or clerk personally or by a duly authorized assistant. All ballot cards not issued to a precinct or assigned for absentee voting must be secured and accounted for by the municipal clerk. The clerk or auditor must maintain a record of the number of ballot cards and serial numbers issued to each precinct. The ballot cards must be delivered to the chief election judge of the proper precinct.

An approved ballot box must be provided to each precinct for the deposit of voted ballot cards. This ballot box need not be made of metal but must be capable of being sealed during election day.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4000** [Repealed, 10 SR 1690]

**8220.4050 ADDITIONAL PRECINCT SUPPLIES.**

The following items must be included in the precinct supplies:

- A. an edit listing for the precinct;
- B. ballot envelopes in sufficient quantity to match the quantity of ballots;
- C. envelopes marked "spoiled ballot cards," "defective ballot cards," and "absentee ballots";
- D. an envelope for "original ballot cards for which duplicates are to be made for any reason";
- E. a precinct certification form; and
- F. a set of instructions for operating the precinct on election day.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4100** [Repealed, 10 SR 1690]

**8220.4150 PRECINCT HEADER CARD.**

If the precinct header card is to be sent to the precinct, it must be contained in an envelope for that purpose, placed into the transfer case of the precinct, and delivered to the appropriate precinct.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4200** [Repealed, 10 SR 1690]

**8220.4250 INSTRUCTION POSTERS.**

At least 25 days before every state election the secretary of state shall prepare and furnish to the county auditor of each county in which an electronic voting system with marking

# MINNESOTA RULES 1993

55

VOTING MACHINES 8220.4250

devices is used, posters with instructions for use of the voting devices. One poster must be furnished for each voting booth or voting station.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4300** [Repealed, 10 SR 1690]

**8220.4400** [Repealed, 10 SR 1690]

**8220.4500** [Repealed, 10 SR 1690]

**8220.4600** [Repealed, 10 SR 1690]

**8220.4700** [Repealed, 10 SR 1690]

**8220.4800** [Repealed, 10 SR 1690]

**8220.5000** [Repealed, 10 SR 1690]

**8220.5100** [Repealed, 10 SR 1690]

**8220.5200** [Repealed, 10 SR 1690]

**8220.5300** [Repealed, 10 SR 1690]

**8220.5400** [Repealed, 10 SR 1690]

**8220.5500** [Repealed, 10 SR 1690]

**8220.5600** [Repealed, 10 SR 1690]

**8220.5700** [Repealed, 10 SR 1690]

**8220.5800** [Repealed, 10 SR 1690]

**8220.5900** [Repealed, 10 SR 1690]

**8220.6000** [Repealed, 10 SR 1690]

**8220.6100** [Repealed, 10 SR 1690]

**8220.6200** [Repealed, 10 SR 1690]

**8220.6300** [Repealed, 10 SR 1690]

**8220.6400** [Repealed, 10 SR 1690]