



ADMINISTRATIVE RULES OF MONTANA



44.3.1704 CRITERIA OF EXAMINATION

- (1) The examination of a mechanical voting machine shall be conducted by the examiner or examiners to ensure that the machine meets the criteria set out in ARM 44.3.1703(1) as well as:
 - (a) It shall be determined that if levers or buttons of any description are used as the method of casting a ballot that such levers or buttons will produce a positive vote regardless if they are fully depressed or not.
 - (b) If the system includes its own voting booth or compartment provision shall be made for a larger voting area which will accommodate a wheelchair and/or persons named to assist a handicapped elector.
 - (c) It shall be determined, in the judgment of the examiners whether or not the system complies with all other applicable requirements of the election laws.
- (2) The examination of a voting device shall be conducted by the examiner or examiners as follows:
 - (a) It shall be determined that the criteria in ARM 44.3.1704 are met.
 - (b) By tabulation of the preprogrammed materials supplied under ARM 44.3.1702(1)(e), it shall be determined whether the tabulating apparatus will count accurately on no less than two nor more than five tabulations of the materials so supplied. Any difference in count on any tabulation of preprogrammed material shall be deemed a material cause for rejection of the system.
 - (c) A set of sample ballots, not less than 25 nor more than 100 in number, shall be marked or pierced at the site of the examination by a person present other than the applicant or his agent. Such set shall be tabulated no less than two nor more than five times. The failure of any subsequent tabulation to agree completely with the initial tabulation shall be deemed a material cause for rejection of the system.
 - (d) At least two of the ballots marked or pierced under ARM 44.3.1703(1)(b) shall contain a vote for one office in excess of the number of votes which an elector would be entitled to cast for such office. Failure of the machine to reject such ballot shall be deemed a material cause for rejection of the system.
 - (e) The manufacturer or his agent shall demonstrate the extent to which bending, folding or otherwise abusing a ballot or ballot card is possible without causing said ballot or ballot card to be unusable in the tabulating equipment. If more than one per cent of the ballots marked or pierced at the site of the examination shall be rejected by the tabulating equipment for such cause, such rejection shall be deemed a material cause for rejection of the system.

- (f) If the system being examined uses a paper ballot which is to be marked with ink or other visible substance, the manufacturer or his agent shall demonstrate the extent to which a mark may fail to cover the voting space, or fail to be in ideal position before the vote shall fail to be counted by the tabulating equipment.
- (g) Failure of the tabulating equipment to count a vote cast because of the condition of the mark made thereon shall be deemed a material cause for rejection of the system, if, in the opinion of the examiners, such mark would have been counted for the person voted for if the ballots were manually tabulated.
- (h) Engineering change orders considered to be *de minimis* changes to voting systems shall be reviewed and approved by the Secretary of State upon written application.

Authorizing statute(s): 13-17-103, 13-17-107, MCA

Implementing statute(s): 13-17-101, 13-17-103, MCA

History: NEW, 1979 MAR p. 1693, Eff. 12/28/79; AMD, 1996 MAR p. 3221, Eff. 12/20/96; AMD, 2010 MAR p. 1545, Eff. 6/25/10.