

Section 6210 is amended by adding a new subdivision 6210.20, to read as follows:

6210.20 Use of Automated Audit Tool

(a) Use of Automated Audit Tool

(1) Notwithstanding the requirement of 6210.18 that the post-election audit shall be a “manual” or “hand” count, a board of elections may use an automated audit tool approved by the state board of elections pursuant to subdivision one of section 9-211 of the Election Law, to perform a machine-assisted audit in accordance with the substantive requirements of 6210.18. Machine-assisted audit results shall then stand in place of the manual count for all audit purposes. The configuration of such audit tool for use in a machine-assisted audit shall be done in a bipartisan manner, or may be done by an independent third party, subject to bipartisan review and validation. Such ballot configuration shall include pre-election test processes, pursuant to Part 6210.8 of these regulations.

(b) Definitions

For purposes of this section:

(1) “Automated audit tool” shall mean software, device or other similar product which is developed without access to proprietary election management software or hardware, and is based upon separate software that is programmed separate and apart from any election management software that is used to configure ballots and tabulate votes as cast on certified voting systems.

(2) “Machine-assisted audit” shall mean an audit pursuant to 6210.18 utilizing automated tools approved for county board use by the state board, to rescan ballots, then comparing audit tool results to those produced from voting system results media, and which further requires the manual comparison of some paper ballots or voter-verified paper audit records to the corresponding Cast Vote Records produced by the audit tool to ensure a human-observable check of vote tabulation which does not depend upon any voting system’s hardware or software component.

(3) “Rescanned ballot” shall mean a paper ballot that is scanned and interpreted by the audit tool.

(4) “Cast Vote Record” shall mean the audit tool’s interpretation of the votes cast on a rescanned ballot.

(c) Confirmation of Machine-Assisted Audit Accuracy

(1) To provide a human-observable check of the vote tabulation accuracy of the audit tool, a random sample of rescanned ballots shall be selected. For each rescanned ballot in the sample, the votes shall be manually interpreted, and these manual interpretations shall be compared to the audit tool interpretations of votes on that ballot.

(2) The requisite number of rescanned ballots to be manually compared:

<u>Number of Rescanned Ballots</u>	<u>Number of Manually Compared Ballots</u>
≤ 2,500	25
2,501 – 5,000	32
5,001 – 7,500	39
7,501 – 10,000	46
10,001 – 20,000	56
20,001 – 30,000	66
30,001 – 40,000	76
40,001 -- 50,000	86
50,001 -- 60,000	96
60,001 -- 70,000	106
70,001 -- 80,000	116
80,001 -- 90,000	126
90,001 -- 100,000	136

If the number of rescanned ballots exceeds 100,000 the number to be manually compared shall be 136 plus .05% (.0005) of the number of machine assisted audited ballots in excess of 100,000.

(3) Before the random selection of ballots to be manually compared, a computer-readable file of audit tool Cast Vote Records (CVR), representing all rescanned ballots, shall be produced in a commonly available format such as comma-separated value (CSV), such that each CVR can be associated with the corresponding paper ballot. This file, along with the vote totals for each audited machine as produced by the audit tool, and any documentation needed to interpret the contents, shall be made available to a watcher upon request on a physical medium.

(4) The county board of elections shall, as required by Part 6210.18(b), provide notification of the random selection of ballots to be manually compared.

(5) The rescanned ballots to be compared shall be randomly selected from the total number of rescanned ballots in the county. Such random selections shall be made by a random number generator or such other process approved by the state board. The selection shall be based on a sequential number assigned to each rescanned ballot reflecting the order in which the ballot is reviewed by the independent automated tool.

(6) The results of the comparisons between audit tool vote counts and voting system results, and of the manual comparison between paper ballots and audit tool CVRs, including a full description and explanation of any discrepancies found, shall be reported to the state board of elections and shall accompany the certified election results. In explaining discrepancies between audit tool vote counts and voting system results, the paper ballots shall be examined, including a hand count of any batch for which any unexplained discrepancy is found.

(7) The expansion of any audit in which an automated audit tool is used shall be based on the same criteria provided for in (e)(1) of 6210.18, taking into account both discrepancies found during the manual comparison and discrepancies between the audit tool vote totals and the totals reported by the voting system. Any expansion performed with an audit tool will be subject to similar observable manual comparison.

(d) Implementation Procedures

The county board of elections shall adopt procedures based upon the State Board's standard post-election audit procedures for machine assisted audits no later than upon the completion of acceptance testing of any automated audit tool, and such county-specific procedures shall be filed with the state board of elections. Such specific procedures shall not take effect until approved by the state board of elections.