

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

6210.20 Use of Independent Automated Audit Tool

(a) Use of Independent 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 independent 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) “Independent, 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 scan ballots, then comparing audit results to those produced from voting system results media, and which further requires the manual comparison of some ballots or voter-verified paper audit records to ensure a human-observable check of vote tabulation which does not depend upon any voting system’s hardware or software component.

(c) Confirmation of Machine-Assisted Audit Accuracy

(1) A manual comparison of a requisite number of audited ballots (or voter-verified paper audit records) shall be made to confirm, by means of a human-observable check, the vote tabulation accuracy of the independent, automated audit tool.

(2) The requisite number of machine-assist ballots to be manually compared:

<u>Number of Machine Assisted Audited 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 machine assist audited ballot 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) The machine-assisted audited ballots to be compared shall be randomly selected from the total number of machine-assist audited 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 machine-assisted ballot reflecting the order in which the ballot is reviewed by the independent automated tool.

(4) The expansion of any audit in which an independent automated audit tool is used shall be based on the same criteria provided for in (e)(1) of 6210.18.

(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.