Rules of
Elected Officials
Division 30—Secretary of State
Chapter 10—Voting Machines (Electronic)

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 10—Voting Machines
(Electronic)

15 CSR 30-10.010 Definitions

PURPOSE: This rule provides definitions of terms in addition to those found in Chapter 115, RSMo for the conduct of elections.

(1) Election authority shall mean the county clerk or board of election commissioners. The election authority shall be the chief custodian of the electronic voting system and its components and shall be responsible for the proper maintenance and all necessary preparation for elections. The election authority is authorized to appoint as many custodians as deemed necessary and is permitted by law.

(2) Electronic voting system is a system of casting votes by use of marking devices, and counting votes by use of automatic tabulating or electronic data processing equipment and includes computerized voting systems.

(3) Automatic tabulating equipment shall mean a system consisting of a mechanical or photoelectric ballot card reader, or both, an electronic central processing unit and visually readable tabulated results of the voters' markings on the ballot card. Integral to the system is a capacity to determine the number of ballots processed and the votes cast on each candidate and each ballot question by precinct, jurisdiction total and any other needed total such as ward or township. Absentee totals shall be determinable.

(4) Program shall mean the prepared election computer program or the section of the computer program that contains the information for the particular election being tabulated. Additionally the term shall extend to all programs in the system including, but not limited to, system software, utilities software and compilers, which may be used during the operation of the application software which tabulates the ballots. The program may be stored on cards, tapes, discs, integrated circuits or other electronic, magnetic, optical or paper storage media.

(5) Ballot card is a ballot which is voted by making a punch or sensor mark which can be tabulated by automatic tabulating equipment. All types of automatic or electronic system ballots shall be known as ballot cards regardless of size or stock thickness.

(6) Ballot label is the card, paper, booklet, page or other material containing the names of all offices, candidates and questions to be voted on.

(7) Systems which use a single unit for the ballot card and the ballot label shall conform to the rules for both.

(8) Accessible voting station is a voting station equipped for individuals with disabilities.

(9) Audio ballot is a ballot in which a set of offices and issues is presented to the voter in audible, rather than visual form.

(10) Audit trail is recorded information that allows election officials to review the activities that occurred on the voting equipment to verify or reconstruct the steps followed without compromising the ballot or voter secrecy.

(11) Audit trail for direct recording equipment is a paper printout of votes cast, produced by direct recording electronic voting machines (DREs), which election officials may use to crosscheck electronically tabulated totals.

(12) Ballot marking device is any approved device which will enable the votes cast on paper ballots to be counted by automatic tabulating equipment.

(13) Ballot style is the particular set of contests and issues to appear on the ballot for a particular election district, their order, the list of ballot positions for each contest or issue, and the binding of candidate names and issues to ballot positions.

(14) Cast vote record is the permanent record of all votes cast by a single voter whether in electronic, paper or other form.

(15) Counter is the register on each Direct Recording Electronic (DRE) unit which increments by one (1) each time a ballot is cast on the unit. The election counter is the register which is reset for each election and records the number of ballots cast on a DRE unit in a particular election. The system counter is the register which cannot be reset and records the number of ballots cast on a DRE unit over the course of the life of the unit.

(16) DRE is an electronic voting system that utilizes electronic components for the functions of ballot presentation, vote capture, vote recording and tabulation, which are logically and physically integrated into a single unit. A DRE produces a tabulation of the voting data stored in a removable memory component and in printed hard copy.

(17) Election management system is a set of processing functions and databases within a voting system that define, develop and maintain election databases, perform election definition and setup functions, format ballots, count votes, consolidate and report results, and maintain audit trails.

(18) Electronically-assisted ballot marking device is a device that provides assistance to voters who are visually impaired, who have difficulty reading English, or who have difficulty correctly marking by hand a preprinted paper ballot that is to be counted in optical scan systems. The device marks, or assists the voter to mark, selected choices on a previously inserted, preprinted paper ballot. The device then provides audio, tactile, or visual feedback to the voter with regard to the choices the voter has made on the ballot. The completed ballots are later tabulated on the same unit that processes other paper ballots.

(19) Logic and accuracy testing is the testing of the tabulator setups of a new election definition to ensure that the content correctly reflects the election being held (i.e., contests, candidates, number to be elected, ballot styles, etc.) and that all voting positions can be voted for the maximum number of eligible candidates and that results are accurately tabulated and reported.

(20) Paper cast vote record is a paper record of all votes cast by a single voter that can be directly verified by the voter. It is the record that is created from the voter verifiable audit record after the selections are verified and the vote is cast by the voter.

(21) Precinct count voting system is a voting system that tabulates ballots at the polling place. These systems typically tabulate ballots as they are cast and are capable of printing the results after the close of polling.

AUTHORITY: section 115.225, RSMo Supp. 2005.* Original rule filed March 31, 1972, effective April 14, 1972. Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982. Emergency rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Amended: Filed Dec. 15, 1986, effective Feb. 28, 1987. Emergency amendment filed June 21, 2006, effective July

1, 2006, expired Feb. 22, 2007. Amended: Filed June 21, 2006, effective Dec. 30, 2006.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002.

15 CSR 30-10.020 Certification Statements for New or Modified Electronic Voting Systems

PURPOSE: This rule provides that voting machine manufacturers file an initial affidavit stating that the voting machine complies with all applicable rules and laws and a second affidavit stating that when any changes are made in the system the voting machine's ability to continue to comply with the applicable rules and laws will not be affected and that voting machine manufacturers deposit into an escrow account the source code for each version of their voting system qualified for sale and use in Missouri.

(1) As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall have completed and submitted to the secretary of state a certification statement in substantially the same form as contained in section (5), and shall have received certification from an independent testing authority approved by the secretary of state.

(2) Beginning on July 1, 2006, when no amendments have been made to an approved system or machine subsequent to qualification, the manufacturer or supplier shall notify the secretary of state that no amendments have been made on a semi-annual basis on January 1 and July 1 starting on the notification date immediately following approval.

(3) As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall execute an escrow agreement with an escrow agent for the manufacturer's source code for each system fully qualified by the Office of the Secretary of State. At a minimum, the agreement must:

(A) Identify an escrow agency;

(B) Provide the software source code for all voting system components in a minimum of two (2) formats (one (1) human readable and one (1) machine readable) to the escrow agent;

(C) Provide the software documentation to the escrow agent;

(D) Contain a statement confirming that the state of Missouri will, within seven (7) days of the occurrence of one of the following events, receive full access to the source code

and unlimited rights to continue using and supporting the software at no cost to the state or the agency should the manufacturer:

1. Become insolvent; or

2. Make a general assignment for the benefit of creditors; or

3. File a voluntary petition of bankruptcy; or

4. Suffer or permit the appointment of a receiver for its business or assets; or

5. Become subject to any proceeding of bankruptcy or insolvency law, whether foreign or domestic; or

6. Wind up or liquidate its business voluntarily or otherwise and the state has reason to believe that the vendor will fail to meet future obligations; or

7. Discontinue support of the provided products or fail to support the products in accordance with its maintenance obligations and warranties;

(E) Contain a statement agreeing to notify in writing the Independent Testing Authority (ITA) that certified the system, giving the state of Missouri full access to "final build," records and test results related to the certification tests at no charge to the state; and

(F) Contain a statement agreeing that the escrow will stay in place as long as the system is used in Missouri, at no cost to the state.

(4) If any modification, deletion or improvement to approved voting or tabulating equipment, procedures or systems is made, the manufacturer, programmer or supplier shall notify the secretary of state and a certification amendment statement shall be submitted.

(A) No certification need be submitted if one (1) of the following conditions are met:

1. The equipment is not a device which—

A. Converts the intent of the voter into a data string, as an example, a card reader or scanner;

B. Changes, interprets, converts, modifies or records the data string being transmitted from the ballot counter; or

C. Manipulates data or the results of any data conversion into a report exclusive of the printer; or

2. The software only monitors system operation.

(B) Certificates from the software supplier or programmer shall always be submitted in the following cases when the additions could be used during the tabulating process:

1. Installation of a new release of system software, utilities software, or both;

2. Installation of new or expanded central processing units;

3. Installation of additional random access or read only memory (RAM or ROM); and

4. Installation of additional magnetic, electronic or optical data storage units.

(C) All systems installed as of January 1, 1987 are approved in the configuration that existed as of that date.

(5) Manufacturer's certification statement shall be completed substantially as the example which follows:

MANUFACTURER'S CERTIFICATION STATEMENT

I, _____, president of

_____
(*electronic voting systems company*)
do hereby certify to _____,
Secretary of State of Missouri that the
_____ electronic voting
(*name of equipment*)
system will permit in accordance with section 115.225, RSMo:

1. Voting in absolute secrecy;

2. Each elector to vote at any election for all persons and offices for whom and for which s/he is lawfully entitled to vote;

3. The automatic tabulating equipment to be set to reject all votes for any office or on any measure except write-in votes when the number of votes exceeds the number the voter is entitled to cast;

4. Each elector to vote for as many persons for an office as s/he is entitled to vote for;

5. Each elector to vote for or against any questions upon which s/he is entitled to vote; and to vote, by means of a single device, where applicable, for all candidates of one (1) party or to vote a split ticket as s/he desires;

6. Each elector, at presidential elections, by one (1) punch or mark, to vote for the candidate of that party for president, vice-president and their presidential electors; and

7. The _____
electronic voting system complies with all other requirements of the election laws of the state of Missouri where they are applicable.

(Briefly describe the type of electronic voting system provided by

_____,
the means by which it meets the requirements of provisions 1.–6. and list the areas in which the system is in use.)

I do hereby certify that the above information is true and accurate this _____ day of _____ , 20___.

_____
(*President*)

_____
(Name of Company)

The above signator appeared before me this
_____ day of _____, 20__, and did
personally sign this affidavit.

_____
(Notary)

My commission expires _____

(6) Compliance with this certification statement will assist this office when approval is requested for use of electronic voting systems in this state. After receiving this information, the secretary of state will schedule a meeting with the election official making the request to use electronic equipment and representatives of the voting equipment company to discuss approval of its use in Missouri.

(7) The certification amendment statement shall be completed substantially as the example which follows:

AMENDMENT TO CERTIFICATION STATEMENT

I, _____
(Name)
_____, of
(Office)
_____, do hereby certify
(Company)
to _____, Secretary of
State of Missouri, that the change outlined here will not affect the accuracy or legal operational requirements as outlined in section 115.225, RSMo of

_____.
(Product Name and Version)

_____
(Briefly describe the change.)

_____
(Signature)

The above signator appeared before me this
_____ day of _____, 20___ and did personally sign this affidavit.

_____
(Name)
_____
(Name of Company)
_____
(Notary)

My commission expires _____

(8) No change in system software, utilities software, or both, may be made within six (6) weeks prior to an election in which the auto-mated tabulating equipment will be used for the tabulating of ballots. In the event that system software, utilities software, or both, is to be changed within thirty (30) days after any election in which the automated tabulating equipment is used for the tabulating of ballots, the election authority shall have copies made of the original system software, utilities software, or both, and those copies shall be stored in the same manner as the ballots counted in that election.

AUTHORITY: section 115.225, RSMo Supp. 2005.* Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed April 7, 1978, effective July 13, 1978. Emergency amendment filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Amended: Filed Oct. 5, 1982, effective Feb. 11, 1983. Amended: Filed Dec. 15, 1986, effective Feb. 28, 1987. Rescinded and readopted: Filed Aug. 8, 2001, effective March 1, 2002. Emergency amendment filed June 21, 2006, effective July 1, 2006, expired Feb. 22, 2007. Amended: Filed June 21, 2006, effective Dec. 30, 2006.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002.

15 CSR 30-10.025 Election Authority's Certification Statement

PURPOSE: This rule provides a method by which the election authority and the secretary of state are assured that the systems being purchased are approved for use in Missouri.

(1) No election authority shall authorize payment for software or hardware used for the tabulation of ballots unless the following actions have been taken:
  (A) They shall have on file in their office a copy of the letter of authorization from the secretary of state to the manufacturer of the equipment, software, or both, being purchased which states that the equipment, software, or both, is approved for use in Missouri; and
  (B) They shall have filed with the elections division of the Secretary of State's office a sworn statement that they do have the letter referenced in section (S) in their file and they believe that the software, equipment, or both, purchased is the same as that approved by the secretary of state.

AUTHORITY: section 115.225, RSMo 1986.* Original rule filed Dec. 15, 1986, effective Feb. 28, 1987.

*Original authority: 115.225, RSMo 1977.

15 CSR 30-10.030 Voter Education and Voting Device Preparation

PURPOSE: This rule provides for the conduct of voter education and voting device preparation.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Before elections in which an electronic voting system is to be used for the first time, the election authority shall conduct a public information program to acquaint voters who will be using the system with the manner in which ballots are voted and counted.

(2) Vote Recording Preparation—Polling Place. In addition to those supplies required for the conduct of elections generally, the election authority shall cause to have prepared and delivered to each polling place using the electronic voting system no later than forty-five (45) minutes prior to the opening of the polls, a sufficient quantity of the following:
  (A) Each polling place in a primary or general election shall be provided with at least one (1) voting device for each one hundred fifty (150) registered voters. A sufficient number of machines shall be provided for other elections. There shall always be one (1) extra specimen voting device per polling place for use in the instruction of voters. Exceptions to this regulation for specific elections may be granted upon application therefor to the secretary of state. In primary elections there shall be at least one (1) voting device for each eligible political party or ticket. The voting devices shall be put in order, set, adjusted and ready for voting when delivered to the polling places;
  (B) Ballot label assemblies for use on voting devices requiring ballot labels, in the format approved by the secretary of state, properly sequenced, mounted in each voting device supplied. The type of election and the date of election shall be plainly marked on

the front cover of each ballot label assembly. In preparing a voting device for an election, it shall be arranged so that it will in every particular case meet the requirements for voting and counting at that election;

(C) Ballot cards in the form required for processing by the electronic data processing equipment. The number of ballot cards supplied shall be sufficient to comply with section 115.247, RSMo;

1. The ballot card shall be in the format approved by the secretary of state. In the case of ballot cards of the 5081 size, the ballot stub and the ballot card shall not contain any common identifying mark, number or symbol which would permit them to be matched after having been detached in the voting process. Systems using larger sheets for ballot cards shall likewise be void of matching marks.

2. All arrows on the ballot label indicating where a voter may mark to designate his/her vote shall point to the center of the appropriate hole in the mask or the proper area for marking. All play in the ballot label of the 5081 size cards shall be limited so that the point of the arrow always points to the hole.

3. Demonstration ballot cards of a distinctive color, clearly marked for demonstration for use in the instruction voting device to educate the voter in the use of the system shall be supplied in such number as may be determined by the election authority.

4. Sample ballots, demonstration ballot cards or ballot labels which shall be exact copies of the official ballots except for wording indicating the sample status of the sheet.

5. All ballot cards shall be delivered to the polling places in a sealed package or container;

(D) Envelopes, sufficient in size to cover the voting area of the ballot card, if ballot cards of the 5081 format are used, made of stiff paper into which the ballot card is inserted by the voter after voting. The envelope shall cover the voting area of the ballot card and shall be of sufficient width to prevent insertion into a voting device. Ballot envelopes shall contain space so that the voter may cast write-in votes, if allowable for that election. The number of ballot envelopes shall equal the number of ballot cards supplied. Envelopes shall not be required in systems where the voter inserts the ballot card into the electronic counting device him/herself;

(E) Paper ballots, if any part of the election is to be voted on paper ballots;

(F) Ballot boxes as required by general election law;

(G) A transfer case sufficiently large to hold, transfer to the counting location from the polling place and store the ballot cards which have been voted in a polling place and the spoiled ballots envelope. The transfer case shall be constructed of metal and sealed with a numbered nonreusable seal;

(H) Envelopes and containers in which to enclose voted paper ballots, if used; spoiled ballot cards; envelopes; unused paper ballots; and unused ballot cards;

(I) A ballot card certificate, in the form set out with this rule, together with an envelope addressed to the election authority;

(J) Two (2) sample ballots of each ballot type to be voted on in the polling place;

(K) Pencils, seals and any other supplies and forms deemed necessary; and

(L) *Instruction Guide for Election Judges and Clerks* issued by the secretary of state.

AUTHORITY: section 115.225, RSMo 1986.* Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed Sept. 15, 1972, effective Sept. 25, 1972. Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982. Emergency rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983.

*Original authority: 115.225, RSMo 1977.

STATE OF MISSOURI
BALLOT CARD CERTIFICATION

This section to be completed BEFORE Polls open.

We hereby certify at the _____Election held in _____ , Missouri,

on _____ , 19 _____ in _____ Township and _____Precinct(s) that the

following information is correct.

_____   _____
(Initials of Judges)

Rep. _____ Dem. _____
Rep. _____ Dem. _____   BALLOT SERIAL NUMBERS
Rep. _____ Dem. _____

_____   _____

Color _____ Beginning No. _____ Ending No. _____ Total _____
Color _____ Beginning No. _____ Ending No. _____ Total _____

Total Ballots   ←
Received

This section to be completed AFTER Polls close.   _____
Total number of spoiled ballots   _____
Total number of unused ballots (all colors)   _____
Total number of ballots removed from ballot box after polls close   _____

Total of
3 lines   ←
above   _____
Total number of signed ID cards (must equal total ballots from box) _____
Total number of envelopes containing write-in votes   _____

SIGNATURES OF ELECTION JUDGES

Rep. _____ Dem. _____
Rep. _____ Dem. _____
Rep. _____ Dem. _____

Transfer Case Seal Number _____

Transfer Case has been received at the counting location and the contents have been checked in.

_____   _____   _____
(Dem.)   *(Rep.)*   *(Time)*

15 CSR 30-10.040 Electronic Ballot Tabulation—Counting Preparation

PURPOSE: This rule provides for procedures in connection with the preparation for vote recording and tabulation including appointment of judges, equipment and program preparation and pre-election testing.

(1) The election authority shall be responsible for insuring that the electronic tabulating system s/he chooses to use accurately records, and/or counts, all proper votes cast and complies with all applicable state statutes and rules.

(2) The election authority shall be responsible that all steps have been taken to insure that the electronic tabulating equipment operates properly at the time of the pre-election public logic and accuracy test and during the tabulation of ballots on election night.

(3) The election authority shall be responsible for making necessary arrangements for a backup ballot tabulating system.

(4) The election authority shall be responsible for providing a duplicate of the counting program for the computer system on which the ballot tabulation is to be done, regardless of the backup counting system used.

(5) Prior to each election day, the election authority shall be responsible for appointing one (1) or more bipartisan teams composed of equal numbers of members from the two (2) major parties to carry out the functions of—certifying the accuracy of the electronic tabulating equipment, receiving election materials from the polls, duplicating damaged or defective ballots, processing ballots through the electronic tabulating system and preparing election materials for final storage. Each person so appointed shall have the qualifications of and take the oath of office prescribed for election judges in section 115.091, RSMo. These persons will be selected from lists compiled as outlined in section (6) except where an election authority is a board of election commissioners, the election authority may designate persons of its own choosing.

(6) Beginning in 1987, not less than sixty (60) days prior to the first election date of each calendar year, each election authority, except as noted in section (5), shall notify by mail, the chairpersons of the two (2) major political parties within their jurisdiction of the number of persons from their parties needed for the bipartisan teams used in processing and counting ballots. Each chairperson shall have thirty (30) days to provide a list to the election authority, in writing, of twice as many persons meeting the qualifications of section 115.091, RSMo, as the election authority has indicated are necessary. If the chairpersons cannot respond in that thirty (30)-day period with the list of names or enough persons to fill all positions, the election authority shall select persons from that party to fulfill those functions. Nothing contained in this rule shall prohibit an election authority from requesting a new list of names for the bipartisan teams for each election provided that the lists are requested sixty (60) days prior to the election and that the chairpersons have thirty (30) days for response. For elections in 1986, the election authority shall select members of the bipartisan teams in a manner consistent with the way in which s/he has previously selected these personnel. If the election authority has not previously utilized automated tabulating equipment, it shall follow the same schedule as will be used in succeeding years except that the chairpersons shall be notified not later than sixty (60) days prior to the August primary.

(7) Prior to election day the election authority shall supervise a public logic and accuracy test of the electronic tabulating equipment conducted by the accuracy certification team.

(A) The logic and accuracy test shall be open to any member of the public; and the election authority, by some appropriate method, shall notify the public of the time and date of the test.

(B) Persons, other than candidates and other individuals required to be notified under section 115.233, RSMo, wishing to participate in the testing process shall file a written request with the election authority at least twenty-four (24) hours prior to the publicized beginning of the logic and accuracy test.

(C) The election authority shall prepare an appropriate logic and accuracy test deck which will include the following conditions:

1. Each ballot position must be tested;

2. No two (2) candidates for the same office may receive the same number of votes, but each candidate must receive one (1) vote;

3. No ballot question may receive the same number of votes for and against;

4. In situations where a voter can legally vote for more than one (1) person for an office, at least one (1) card shall be voted for the maximum number of allowable candidates;

5. One (1) card shall be marked to have one (1) more vote for each candidate or question than is allowable;

6. One (1) card shall have no votes recorded on it;

7. In general partisan elections, each party shall receive at least one (1) straight party vote. Additionally each party shall receive at least one (1) straight party vote where a candidate of another party receives a vote on the ballot;

8. Ballots should be punched or marked to test all name rotations, if used; and

9. One (1) card (if possible) shall contain a vote for a candidate for whom persons using that ballot format are not entitled to vote.

(D) The accuracy certification team may run the test deck as provided by the election authority again, making as many additions, subtractions or changes in the ballot cards as they desire.

(E) The public logic and accuracy team shall compare the results of the electronic test to those from a manual count of the test ballots. If the results are incorrect, then changes and/or corrections will be made until an errorless count is made. An electronic ballot tabulation machine shall not be used on election day until an errorless count is made on that machine.

(F) After the team is satisfied that the equipment is tabulating the ballots properly, each candidate on the ballot or any representative of a group which has notified the election authority pursuant to subsection (7)(B) may inspect and manually recount the test deck.

(G) If the results match with the manual count, the team shall certify that the system is accurate and properly counting ballots. All logic and accuracy test materials including the deck shall be sealed in a tamperproof container and sealed with a numbered seal. All team members shall verify, by signature or initials, the seal number on a certificate placed on the outside of the container.

(H) The election authority shall have custody of the logic and accuracy test materials including the program until called for by the accuracy certification team.

AUTHORITY: section 115.225, RSMo 2000.* Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed April 7, 1978, effective July 13, 1978. Emergency rescission and rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission and rule filed May 12, 1986, effective Aug. 1, 1986, expired Nov. 7, 1986. Emergency rescission and rule filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded and readopted: Filed April

17, 1987, effective June 25, 1987. Rescinded and readopted: Filed Aug. 8, 2001, effective March 1, 2002.

Original authority: 115.225, RSMo 1977, amended 1993, 1995.

15 CSR 30-10.050 Election Procedures

PURPOSE: This rule provides for the appointment and instruction of election judges.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The election authority shall appoint a minimum of four (4) judges for each polling place to be used in the election according to sections 115.079, 115.081 and 115.083, RSMo.

(2) All persons not previously trained in the use of the type of voting equipment being used, prior to entering into the performance of their duties as judges at the election, shall attend a course of instruction for judges in the use and operation of the electronic voting system, conducted under the authorization and supervision of the election authority. In addition to the normal duties of the judges of election, the instruction shall cover the proper use and procedures for use of the voting devices, ballot cards, marking of the ballot cards, procedures for write-in votes (when applicable), replacing spoiled ballots and procedures for safeguarding and transfer of ballot cards and other materials.

(3) The voting and marking devices, registration books, identification cards, ballots and other necessary supplies shall be delivered to the polling places prior to 5:30 a.m. on election day.

(4) Instructions to Election Judges. The election authority shall provide the *Instruction Guide for Election Judges* issued by the secretary of state to be given to election judges in each polling place. All election procedures outlined in the instruction guide will be performed by judges in polling places having electronic voting systems.

AUTHORITY: section 115.225, RSMo 1986. *Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed Sept. 15, 1972, effective Sept. 25, 1972. Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Emergency rule filed Oct. 5, 1982, effective Nov. 2, 1982. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983.*

Original authority: 115.225, RSMo 1977.

15 CSR 30-10.060 Electronic Ballot Tabulation—Election Procedures

PURPOSE: This rule provides for procedures to be used by election authorities using electronic tabulating equipment to count voted ballots.

(1) Voted and unvoted ballots shall be processed using the following rules:
(A) Voted ballots shall always be handled or moved either by a bipartisan team or in the direct view of a bipartisan team;
(B) In those cases where the election authority determines it is more efficient to move voted ballots by use of a single person, those items shall be placed into a tamperproof container and sealed with a numbered seal. Members of a bipartisan team shall witness the sealing and verify the number of the seal by their signatures on a certificate placed on the exterior of the container. The container shall only be opened in the presence of a bipartisan team which shall verify the accuracy of the seal number before the seal is broken;
(C) The election authority shall be responsible for insuring that sufficient certificates are made on each transfer of ballot responsibility to accurately recreate each movement of the ballot from one (1) team to the next. Each transfer shall include a statement that no election material was added, subtracted or altered except as provided by statute or rule and that no irregularities were noticed unless otherwise noted; and
(D) The election authority or his/her representative shall be on hand at all times in the counting center when ballots are unsealed.

(2) Ballot counting shall be conducted as follows:
(A) The election authority shall have the authority to limit access by persons, other than those previously appointed to bipartisan teams, in those areas where ballots are unsealed or are being counted;
(B) Ballot duplication for damaged ballots shall be done by bipartisan teams using whatever method is selected by the election authority provided that—
1. The system provides an exact duplicate of the voter's intent, pursuant to 15 CSR 30-9.010, 15 CSR 30-9.020 and 15 CSR 30-9.030;
2. Both members of the team participate in the process;
3. Both members can review the other's work;
4. There is an undisputed method to match the duplicate card with its original after it has been placed with the remainder of the ballot cards from that precinct; and
5. Allowances are made for watchers appointed pursuant to section 115.107, RSMo to perform their statutory duties;
(C) Any changes to the operating system, application programs, files or counters used in the ballot counting shall be documented by the election authority;
(D) The last transaction with the electronic tabulating system prior to counting ballots shall be the public logic and accuracy test; and
(E) The election authority may conduct other logic and accuracy tests as s/he deems necessary including the hand count of ballots.

(3) Prior to certification of the election results, the accuracy and certification team shall recount the test deck used prior to the start of ballot tabulation on each electronic tabulating machine as follows:
(A) In the event that the counts are not identical, the team shall not certify that the electronic tabulating system was operating properly;
(B) Necessary corrections shall be made to the tabulating program until the test deck is counted properly, and all ballots shall be recounted; and
(C) If the counts are identical, the team shall certify that the system is operating properly.

(4) After the accuracy certification team has approved the count and before the ballots are sealed for final storage, the team processing the ballots shall select one (1) precinct by mutual consent to be recounted. The results of that recount shall be reported on certificates supplied by the secretary of state. One (1) copy shall be filed with the secretary of state within four (4) weeks of the election date and one (1) copy shall be filed with the public records of the election.

(5) After the recount of the selected precinct, bipartisan teams shall place all ballots and other support materials into appropriate tamperproof containers which are sealed in such a way as to prevent any undisclosed entry. If numbered seals are used, those numbers shall appear on the exterior of the container and shall be witnessed by the signatures of the team members.

AUTHORITY: section 115.225, RSMo 2000.* Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed Sept. 15, 1972, effective Sept. 25, 1972. Amended: Filed Nov. 18, 1976, effective March 11, 1977. Emergency amendment filed Oct. 8, 1976, effective Oct. 18, 1976, expired Feb. 15, 1977. Amended: Filed April 7, 1978, effective July 13, 1978. Emergency rescission and rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission and rule filed May 12, 1986, effective Aug. 1, 1986, expired Nov. 7, 1986. Emergency rescission and rule filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded and readopted: Filed April 17, 1987, effective June 25, 1987. Rescinded and readopted: Filed Aug. 8, 2001, effective March 1, 2002.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995.

15 CSR 30-10.070 Certificates by Officers; Security Areas; Retention of Material; Independent Audit
(Rescinded June 25, 1987)

AUTHORITY: section 115.225, RSMo 1986. Original rule filed March 31, 1972, effective April 10, 1972. Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Emergency rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983. Emergency rescission filed April 17, 1987, effective April 27, 1987, expired Aug. 14, 1987. Rescinded: Filed April 17, 1987, effective June 25, 1987.

15 CSR 30-10.080 Absentee Balloting

PURPOSE: This rule sets out procedures for absentee balloting in addition to those found in Chapter 115, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) All jurisdictions using electronic data processing tabulation systems may conduct absentee balloting by the same means. The requirements of Chapter 115, RSMo shall be followed.

(2) For absentee ballots to be voted within the office of the election authority, the election authority may provide voting devices equipped with ballot label assemblies as provided in 15 CSR 30-10.030 or by voting on the styrofoam-type backing in the case of the 5081 type ballot cards in the same manner as does the voter who receives an absentee ballot by mail.

(3) For absentee ballots to be voted elsewhere, the election authority shall provide:
  (A) A ballot card mounted on a backing of styrofoam or other similar material to permit convenient and efficient marking of the ballot card if the 5081 type card is used. Ballot cards where the mark is by way of a pencil do not require the backing materials;
  (B) A disposable marking device for marking the ballot card;
  (C) A printed paper listing of the offices, candidates and questions containing reproductions of the pages of the ballot label assembly used for voting;
  (D) Absentee voting instructions in substantially the same form as section (6) of this rule;
  (E) Ballot card envelope, if used; and
  (F) Envelope for returning voted ballot to election authority.

(4) The absentee ballots so voted shall be counted in the manner provided in section 115.301, RSMo.

(5) The absentee ballots should then be processed in accordance with the "Procedures After the Polls Close" outlined in the *Instruction Guide for Election Judges and Clerks*.

(6) Absentee voting instructions are shown in Exhibits 3A and B.

AUTHORITY: section 115.225, RSMo 1986.* Original rule filed March 31, 1972, effective April 10, 1972. Amended: Filed Sept. 15, 1972, effective Sept. 25, 1972. Emergency amendment filed Oct. 8, 1976, effective Oct. 18, 1976, expired Feb. 15, 1977. Amended: Filed Nov. 18, 1976, effective March 11, 1977. Amended: Filed April 7, 1978, effective July 13, 1978. Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982. Emergency rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983.

*Original authority: 115.225, RSMo 1977.

EXHIBIT 3A
Sample Absentee Voting Instructions
For Punch Card Voting Jurisdictions

ABSENTEE VOTING INSTRUCTIONS
READ ALL INSTRUCTIONS BEFORE VOTING

Your 'ballot packet' consists of:

- BALLOT CARD (which is mounted on styrofoam backing)
- Ballot Card Secrecy envelope (gray)
- Absentee ballot envelope in which Ballot Card and Secrecy envelope will be inserted
- Official Absentee ballot sheet listing offices, candidates and/or questions
- Absentee Voting Instructions (this sheet)
- Wire Punch device (paper clip)

If you spoil your ballot card in any manner—you may return the ballot packet to the Election Authority and request a new ballot card.

TO VOTE

Read the Official Absentee Ballot sheet noting the offices, the candidate names, questions and other special instructions. Next to the name of each candidate and question is a NUMBER or set of numbers which correspond to numbers on the ballot card.

Using the wire punch device supplied, firmly punch out the small "black dot" on the ballot card above the number of the candidate or issue.

Punch with sufficient force so that the "black dot" is completely punched out of the ballot card.

AFTER VOTING THE BALLOT CARD

- Place the ballot card in the gray secrecy envelope.
- In the presence of a notary public fill out the envelope including your signature. Let the notary sign, date and emboss the envelope.
- Place the ballot card (inside the secrecy envelope) inside the large envelope after the notary fills out his section and completes the embossing.
- Seal the large envelope.
- Return the envelope to the Election Authority either in person or by the U.S. Postal Service.

The envelope containing your ballot must be received by the Election Authority not later than 7 p.m. on the day of the election.

EXHIBIT 3B
Sample Absentee Voting Instructions
for Mark Sense Voting Jurisdictions

ABSENTEE VOTING INSTRUCTIONS
INSTRUCTIONS FOR MARKING BALLOT(S)

USE <u>ONLY</u> THE PENCIL PROVIDED   VOTE BOTH SIDES OF BALLOT

1. On receipt of this ballot the voter, using the pencil provided, shall prepare the ballot for voting in the following manner.

    (1) Should the voter desire to vote a "straight party ticket" he shall place a cross (X) mark in the circle immediately below the party name. If the voter desires to vote for one or more candidates on more than one party ticket, by voting what is commonly known as a "split ticket" he may place a cross (X) mark in the circle immediately below one party name and mark cross (X) marks in the squares at the left of the names of candidates on other tickets for whom he wishes to vote.

    (2) If the voter desires to vote for one or more candidates whose name or names do not appear on the printed ballot, he may do so by writing the name of the person for whom he desires to vote, and placing a cross (X) mark in the square at the left of such name on the printed ballot in the column provided for write-ins.

    (3) Where there are two or more candidates for like office in a group, a cross (X) mark in the square to the left of a candidate's name automatically votes against the candidate whose name appears within the same horizontal lines in the column under the circle in which appears the cross (X) mark.

2. All candidates of the party whose circle is marked shall be counted as voted for, excepting where squares are crossed preceding the names of the candidates in other columns. If two or more candidates for the same office are thus designated, neither shall be counted. If the cross (X) is not placed in the circle immediately below the party name at the head of the column, but does appear in the squares opposite the various candidates' names, then only these names shall be counted for, and none other. A cross (X) mark is any line crossing any other line at any angle within the voting space and no ballot shall be declared void because a cross (X) mark therein is irregular in form.

3. It is unlawful to deface or tear a ballot in any manner or to erase any printed name, figure, word or letter therefrom, or to erase any mark made thereon by the voter.

4. A ballot without any marks shall not be counted. Ballots shall be counted only for the person for whom the marks thereon are applicable; when a voter places a mark against two or more names for the same office, and only one candidate is to be chosen for the office, none of the candidates is deemed to have been voted for and the ballot shall not be counted for either candidate.

5. DO NOT FOLD BALLOT. All ballots must be returned to the election authority no later than 7:00 p.m. on election day in order to be counted.

15 CSR 30-10.090 Procedure for Recount or Contested Election

PURPOSE: This rule provides program tabulating and accuracy tests in addition to those set out in 15 CSR 30-10.020 for tabulating a recount or contested election.

(1) Procedure for Recall Contest Using Electronic Data Processing System. A recall contest has two (2) parts. Part 1 consists of a yes or no vote for the recall proposal. Part 2 consists of candidates for the vacant office in the event a majority of yes votes are cast for the recall proposal. Only voters casting valid votes in Part 1 are eligible to vote in Part 2. Ballot cards which do not contain a vote in Part 1 and ballot cards which contain both yes and no votes in Part 1 represent invalid ballots not eligible to vote in Part 2, and must be manually removed from the ballot cards to be tabulated with the electronic processing system. Once the invalid ballot cards have been identified manually and have been put aside, and the total removed has been verified, the remaining valid ballot cards are processed to determine the number of yes and no votes for the recall proposal and the candidate(s) elected to succeed the incumbent.

(2) Standard electronic data processing tests and auditing procedures shall be used to test the accuracy and validity of the programming of the electronic data processing system.

AUTHORITY: section 115.225, RSMo 1986.* Original rule filed March 31, 1972, effective April 15, 1972. Emergency rescission filed Oct. 5, 1982, effective Nov. 2, 1982. Emergency rule filed Oct. 5, 1982, effective Nov. 2, 1982, expired Feb. 2, 1983. Rescinded and readopted: Filed Oct. 5, 1982, effective Feb. 11, 1983.

*Original authority: 115.225, RSMo 1977.

15 CSR 30-10.100 Rejection of Votes
(Rescinded December 13, 1979)

AUTHORITY: section 115.225, RSMo 1978. Original rule filed Nov. 13, 1978, effective Feb. 11, 1979. Rescinded: Filed Aug. 14, 1979, effective Dec. 13, 1979.

15 CSR 30-10.110 Manual Recount

PURPOSE: This rule provides a method for the election authority, the secretary of state and the general public to compare electronically tabulated vote results with manual recounts of selected races and ballot issues in certain election precincts.

(1) Definitions.
  (A) County—whenever the word county is used in this rule, it includes the cities of St. Louis and Kansas City.
  (B) Precinct—the election authority, at his/her discretion, may consider polling sites containing more than one (1) precinct to be counted as a single precinct for all purposes of this rule.

(2) Prior to the certification of the election results, the accuracy certification team shall randomly select not less than five percent (5%) of all election precincts through the use of a random drawing, but not less than one (1) precinct, in order to conduct a manual recount of selected contested races and ballot issues in the selected precinct(s). Random selection of the precincts shall be open to any member of the public, and the election authority shall notify the public of the time and place of the selection process no later than forty-eight (48) hours prior to the beginning of the selection process by posting a notice in a prominent place, which is easily accessible to the public and clearly designated for that purpose, at the principal office of the election authority.

(3) Recount of the randomly selected precinct(s) shall be conducted in the following manner:
  (A) The election authority shall select not less than one (1) manual recount team made up of not less than two (2) persons selected from lists as outlined in 15 CSR 30-10.040(6) except when an election authority is a board of election commissioners, the election authority may designate persons of its own choosing. Each person so appointed shall have the qualifications of and take the oath of office prescribed for election judges in section 115.091, RSMo. The election authority may utilize the accuracy certification team selected in 15 CSR 30-10.040;
  (B) For the selected precinct(s), the manual recount team shall unseal the appropriate ballot containers and manually recount certain randomly selected contested races and ballot issues; and
  (C) One (1) contested race or ballot issue to be manually recounted shall be randomly selected from each of the following categories, where applicable:
    1. Presidential and Vice-Presidential electors, United States senate candidates and state-wide candidates;
    2. State-wide ballot issues;
    3. United States representative candidates and state general assembly candidates;
    4. Partisan circuit and associate circuit judge candidates and all nonpartisan judicial retention candidates;
    5. In addition to the candidates and issues previously listed, the manual recount team shall select not less than one (1) contested race or ballot issue from all political subdivisions and special districts, including the county, in the selected precinct(s); and
    6. In addition to the candidates and issues previously listed, the manual recount team shall select all races in which the margin of victory between the two (2) top candidates is equal to or less than one-half of one percent (0.5%) of the number of votes cast for the office or issue.

(4) If the results of the manual recount of the selected races and ballot issues differ by more than one-half of one percent (0.5%) from the results of the electronically tabulated vote results, the manual recount team shall immediately notify the election authority, who shall investigate the causes of any discrepancy and resolve any discrepancies prior to the date of certification set forth in section 115.507, RSMo.

(5) The secretary of state, at his/her sole discretion, and upon the showing of good cause by an election authority not less than three (3) weeks prior to the date of an election, may waive the manual recount requirement for any political subdivision or special district holding an election on the election date.

(6) Upon completion of the manual recount, the manual recount team shall reseal the ballots and other support materials in the appropriate containers. The results of the manual recount shall be reported on certificates provided by the secretary of state. One (1) copy shall be filed with the secretary of state within four (4) weeks of the election date and one (1) copy shall be filed with the public records of the election.

(7) The secretary of state may make grant funds available to reimburse election authorities for the cost of conducting manual recounts under section (2) and paragraph (3)(C)6. of this rule.

AUTHORITY: section 115.225.1., RSMo Supp. 2008.* Original rule filed Jan. 3, 1990, effective March 26, 1990. Emergency amendment filed Sept. 15, 2008, effective Sept. 25, 2008, expired March 23, 2009. Amended: Filed Sept. 15, 2008, effective March 30, 2009.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002, 2006.

15 CSR 30-10.120 Ballot Management Systems

PURPOSE: This rule provides that management controls shall be instituted by local election authorities on ballot cards counted by electronic ballot tabulating equipment.

(1) Definitions.
   (A) Ballot cards—the computer card on which a voter indicates their votes in the case of a punch card system or the entire ballot on which a voter marks their votes in the case of an optical scan system.
   (B) Destruction of ballot cards—any method which renders the cards unusable for further use as ballot cards including burning, mechanical shredding or cutting and chemical decomposition but does not include landfilling or burying.

(2) All county election officials shall develop and operate a management system to document on the public record the acquisition and usage of all ballot cards provided to them for use in automated tabulating systems.

(3) At a minimum, the system shall provide an ongoing inventory record and a signed written affidavit on the public record for the following activities:
   (A) Receipt of ballot cards including date of receipt, total shipment received and serial numbers (if available) of the ballot cards;
   (B) Issuance of ballot cards to each polling place including the election date, total number of ballot cards issued and serial numbers, if available;
   (C) Receipt of ballot cards from each polling place following the election including election date, a reconciliation for each precinct showing total ballots issued, total ballots voted, total ballots invalidated, total ballots lost and total ballots returned unvoted. The election authority within thirty (30) days after the election shall verify by physical count the number of unvoted ballots. Unvoted ballots shall be shown by serial numbers, if available;
   (D) Issuance of ballots to the election authority for the purpose of absentee ballot preparation. This record shall contain all the elements contained in subsection (3)(B). Following the election, the election authority shall complete a record containing all information contained in subsection (3)(C);
   (E) Destruction of unvoted ballots for whatever purpose the election authority deems appropriate. This record shall contain the number of ballots destroyed, the method of destruction and the serial numbers of the ballot cards, if available;
   (F) Issuance of ballots for educational, testing or any purposes other than those mentioned in subsections (3)(A)–(E). In every case the record shall indicate the purpose for which the ballot cards are issued, the serial numbers of the ballots, if available, and the steps taken by the election authority, including the marking of the word VOID on the face or back of the ballot card or changes to the ballot card to insure that the ballot cards will not be used in subsequent elections; and
   (G) All the affidavits in this section shall be maintained in the office of the election authority for a period of two (2) years after the date on which all ballot cards from a single shipment of ballot cards have been completely issued.

(4) Each election authority shall conduct an annual inventory of all ballot cards in their custody comparing the actual number of ballot cards in their custody with the number of cards indicated as being on their inventory records.
   (A) This inventory must include verification of all serial numbers if available.
   (B) The election authority shall establish the date(s) of the inventory at their discretion between April 1 and June 1 of each year.
   (C) Following the required inventory, the election authority shall sign an affidavit including the actual number of ballots on hand at the end of the previous inventory, the number of ballots received since the previous inventory, the number of ballots restocked following elections or other activities outlined in section (3), the number of ballots issued or destroyed since the last inventory based on previously filed affidavits, the actual number of ballots on hand as determined by the present inventory and any discrepancies. In the case of discrepancies, the election authority shall include their assessment of the reason for the discrepancy. In all cases the affidavit shall include serial numbers, if available.
   (D) One (1) copy of the affidavit shall be held by the election authority in their office for five (5) years from the date of affidavit and one (1) copy shall be forwarded to the secretary of state.

AUTHORITY: section 115.225.1., RSMo 1986. Original rule filed Jan. 3, 1990, effective March 26, 1990.*

Original authority: 115.225, RSMo 1977.

15 CSR 30-10.130 Voter Education and Voting Device Preparation (DREs and Precinct Counters)

PURPOSE: This rule provides for the conduct of voter education and preparation of Direct Recording Electronic voting systems (DREs) and Optical Scan Precinct Count voting systems (Precinct Counters).

(1) Before elections in which a direct recording electronic (DRE) or Precinct Counter is to be used for the first time, the election authority shall conduct a public information program to acquaint voters who will be using the system with the manner in which ballots are voted and counted.

(2) DREs and Precinct Counters shall be tested in accordance with section 115.233, RSMo and 15 CSR 30-10.140, using test scripts and testing procedures appropriate for the make, model, and version of the system.

(3) Each memory component must be programmed in a secured facility under the supervision of the election authority or their designated representative. Before and after programming, all memory cards shall be kept in a secure area until inserted into an assigned unit prior to the election and the local election authority must maintain a written log that records all access and transfers of all memory components.

(4) In addition to the standard displayed ballot, the election authority shall ensure that alternative format ballots are available, including, but not limited to a ballot with large print and an audio ballot for use with DREs and with electronically-assisted ballot marking devices.
   (A) The election authority shall ensure that any alternative format ballot conforms to federal voting equipment guidelines, provides the same information presented to voters in the standard displayed ballot and can be cast and counted as a secret ballot.
   (B) The election authority shall ensure that the order and content of any large print ballot are presented in a manner that is consistent with that of the standard ballot.
   (C) The election authority shall ensure that the audio ballot is recorded correctly and that the names of the candidates are pronounced correctly in the audio recordings. The election authority shall also ensure that no candidate's name; political party, political body, or independent designation; incumbency; or other such information nor any ballot issue or answer or response thereto is emphasized, stressed or otherwise inflected in any manner to distinguish a particular candidate, party or body, issue, answer or response to a ballot issue either negatively or positively or to suggest whether to vote for or against such candidates or issues in such audio recordings.

(5) Vote Recording Preparation—Polling Place. In addition to those supplies required for the conduct of elections generally, the election authority shall cause to have prepared and delivered to each polling place using DREs and Precinct Counters no later than forty-five (45) minutes prior to the opening of the polls, a sufficient quantity of the following:

(A) In jurisdictions in which DREs are the principal system used to cast votes, each polling place in a primary or general election shall be provided with at least one (1) DRE for each one hundred fifty (150) registered voters. A sufficient number of DREs shall be provided for other elections. A sufficient number of assistive devices (i.e., sip-and-puff input devices, headphones, etc.) shall be provided for use with each unit provided. The DREs shall have been put in order, set, adjusted, and ready to open for voting when delivered to the polling places;

(B) In jurisdictions in which DREs or electronically-assisted ballot marking devices are used to provide an accessible voting station, at least one (1) DRE or one (1) ballot marking device shall be provided in each polling location with a sufficient number of assistive devices (i.e., sip-and-puff input devices, headphones, etc.) for use with each unit provided. The units shall have been put in order, set, adjusted, and ready to open for voting when delivered to the polling places;

(C) In jurisdictions in which Precinct Counters are the principal system used to cast votes, each polling place shall be provided with at least one (1) Precinct Counter. The Precinct Counter(s) shall have been put in order, set, adjusted, and ready to open for voting when delivered to the polling places;

(D) Voter access or activation cards or devices programmed with the correct ballot styles for each polling location, in quantities sufficient to conduct the election and delivered to the polling place in a secure container securely sealed in such a manner that if the container is opened, the seal will be broken beyond repair;

(E) Ballot boxes as required by general election law;

(F) Optical Scan paper ballots in locations using Precinct Counters, provisional ballots, provisional ballot envelopes and spoiled ballot envelopes in all locations;

(G) Pencils, seals, rolls of paper for DRE paper cast vote record printers and other supplies and forms deemed necessary;

(H) *Instruction Guide(s) for Election Judges and Clerks,* for the system(s) being used, issued by the secretary of state. In addition to the Instruction Guide issued by the secretary of state, the local election authority may include instructional materials developed by the local election authority for each system used at that polling location;

(I) A transfer case sufficiently large to hold, transfer to the central location from the polling place and store paper cast vote records, electronic media, any paper ballots which have been voted in a polling place and any spoiled ballot envelopes. The transfer case shall be constructed of durable material and tamperproof design and securely sealed in such a manner that if the case is opened, the seal will be broken beyond repair;

(J) Two (2) sample ballots of each ballot to be voted on in the polling place; and

(K) Privacy sleeves for ballots or paper cast vote records that are carried by the voter from one location in the polling place to another for verification purposes and that are not otherwise covered.

AUTHORITY: section 115.225, RSMo Supp. 2005.* Emergency rule filed June 21, 2006, effective July 1, 2006, expired Feb. 22, 2007. Original rule filed June 21, 2006, effective Dec. 30, 2006.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002.

15 CSR 30-10.140 Electronic Ballot Tabulation—Counting Preparation and Logic and Accuracy Testing (DREs and Precinct Counters)

PURPOSE: This rule provides procedures in connection with the preparation of Direct Recording Electronic voting systems (DREs) and Optical Scan Precinct Count voting systems (Precinct Counters) for vote recording and tabulation, including equipment and program preparation and pre-election logic and accuracy testing and certification.

(1) Election authorities in jurisdictions in which direct recording electronic (DREs) or Precinct Counters are used shall be responsible for ensuring that the devices accurately record and count all proper votes cast and that the systems comply with all applicable state statutes and rules.

(2) The election authority shall be responsible for taking all steps necessary to ensure that the DREs and Precinct Counters operate properly at the time of the pre-election public logic and accuracy test and during the tabulation of votes on the day of the election.

(3) The election authority shall be responsible for making necessary arrangements for a backup ballot tabulating method.

(4) The election authority shall be responsible for providing a duplicate of the counting program for the computer system on which the ballot tabulation is to be done, regardless of the backup counting system used.

(5) The election authority shall be responsible for appointing a bipartisan accuracy certification team(s) pursuant to 15 CSR 30-10.040(5) and (6).

(6) Prior to election day the election authority shall supervise a public logic and accuracy test of the DREs and Precinct Counters conducted by the accuracy certification team(s).

(A) The logic and accuracy test shall be open to any member of the public, and the election authority, by some appropriate method, shall notify the public of the time and date of the test.

(B) Persons, other than candidates and other individuals required to be notified under section 115.233, RSMo, wishing to participate in the testing process, in the manner provided in state law and this rule, shall file a written request with the election authority at least twenty-four (24) hours prior to the publicized beginning of the logic and accuracy test.

(C) The election authority shall cause each DRE and Precinct Counter to be programmed for the ballot style for the precinct(s) at which the DRE or Precinct Counter will be used and the programmed memory card assigned to that unit shall be inserted. After programming the DREs and Precinct Counters, each unit shall have such internal diagnostic tests performed as shall be directed by the election authority. Following the completion of the diagnostic tests, all units shall have an internal logic and accuracy test performed using the programmed ballot style for the election and precinct(s) for which the unit is being prepared and shall test the conditions described in 15 CSR 30-10.040(7)(C). In addition, for DREs and electronically-assisted ballot marking devices, the test script shall include votes cast using a combination of audio and touch-screen methods.

(D) The accuracy certification team(s) shall compare the results of the electronic test to the data entered and to the results from a manual count of the paper cast vote records for the DREs and the results of a manual count of the optical scan paper ballots for the Precinct Counters. If the results are incorrect, then changes or corrections will be made to the programming until an errorless count is made. A unit shall not be used on election day until an errorless count is made on that unit.

(E) After the team(s) is satisfied that the equipment is tabulating the votes properly, each candidate on the ballot or any representative of a group which has notified the election authority pursuant to 15 CSR 30-10.140(6)(B) may inspect the paper audit trail for the DRE and inspect and manually recount the optical scan test deck.

(F) If any unit fails any of the diagnostic or logic and accuracy tests, the unit shall not be used in an election until such unit is repaired, reprogrammed and inspected and found capable of proper functioning and passes the diagnostic and logic and accuracy tests. Upon the successful completion of the logic and accuracy test, the counters shall be cleared of any accumulated vote totals for the election and a zero tape run to verify that the vote registers in the unit are set at zero. The accuracy certification team(s) shall verify that the vote registers are set at zero and make a corresponding notation on the certification form to document the successful logic and accuracy testing and the unit shall be configured for voting. The memory card shall be sealed into the unit to prevent unauthorized access using a controlled serialized seal that is tamper resistant and resistant to inadvertent breakage and the unit shall then be securely closed in its case and a numbered seal placed on its case such that the case may not be opened until and unless the seal is broken. If the unit does not have a case, the unit shall be sealed with a numbered seal placed on the unit such that the unit may not be used for voting until and unless the seal is broken. The numbers on the seals shall be entered into verifiable seal logs.

(G) The election authority shall make a certification for each DRE and Precinct Counter stating the serial number of the unit, the number on the system counter of the unit, the number on the seal with which the unit is sealed, and that the election counter and each vote register on the unit was set at zero. The case shall be appropriately labeled with the name of the polling location in which the unit is to be used and the serial number of the unit. The certification shall be retained with the records for such election and shall be stored for the same period of time and in the same manner as required by law for other election records.

(H) All logic and accuracy test materials shall be sealed in a tamperproof container securely sealed in such a manner that if the container is opened, the seal will be broken beyond repair. All members of the accuracy certification team(s) shall verify, by signature or initials, the date and time the container was sealed on a certificate placed on the outside of the container. The election authority

shall have custody of the logic and accuracy test materials, including the program, until called for by the accuracy certification team.

(I) After being prepared for voting, each DRE and Precinct Counter shall be safely and securely stored until such time as the unit is transported to the polling location in which such unit is to be used.

AUTHORITY: section 115.225, RSMo Supp. 2005.* Emergency rule filed June 21, 2006, effective July 1, 2006, expired Feb. 22, 2007. Original rule filed June 21, 2006, effective Dec. 30, 2006.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002.

15 CSR 30-10.150 Closing Polling Places (DREs and Precinct Counters)

PURPOSE: This rule provides procedures for administering and closing polling places using Optical Scan Precinct Count voting systems (Precinct Counters) and Direct Recording Electronic voting systems (DREs).

(1) Once one (1) vote is cast on a DRE, the poll workers shall encourage voters to cast their votes on that unit so that at least two (2) more ballots are cast on that unit, even if not by voters needing its accessibility components, in order to protect the privacy of the voter.

(2) Abandoned Ballots.
   (A) If a voter leaves the polling place after making their selections on a DRE and printing their ballot, but the voter has not cast the ballot, a bipartisan team of two (2) election judges shall cast the ballot.
   (B) If a voter leaves the polling place after making their selections on a DRE, but the voter has not printed or cast their ballot, a bipartisan team of two (2) election judges shall cancel the ballot and make a corresponding notation on an Abandoned Ballot Tracking Form, initialed by both judges.
   (C) If a voter places an optical scan ballot into a Precinct Counter and the Precinct Counter rejects the ballot after the voter has left the polling place and if the ballot is still in the Precinct Counter, a bipartisan team of election judges shall take action to ensure that the ballot is counted and deposited in the ballot box.
   (D) If a voter leaves their optical scan ballot anywhere in the polling place other than in the Precinct Counter or ballot box and the voter leaves the polling place, the ballot shall not be counted. A bipartisan team of election judges shall mark the ballot "Abandoned"

and place the ballot in the Spoiled Ballot Envelope. The judges shall make a corresponding notation on an Abandoned Ballot Tracking Form, initialed by both judges.

(3) Immediately after the polls close and the last voter has voted, the election judges shall close, or supervise the closing of, each of the DREs and Precinct Counters in the polling location against further voting.

(4) The election judges shall cause each DRE and Precinct Counter to print a minimum of one (1) tape showing the number of votes cast on that unit. They shall compare the number of ballots cast as shown on the tape with the number of ballots cast as shown on the election counter of the unit and with the number of voters who signed the precinct register and for Precinct Counters with the number of ballots marked. If these numbers are not identical, the election judges shall document the discrepancy.

(5) The election judges shall accumulate the votes recorded in each unit onto paper audit trail records for the DREs as well as the electronic medium chosen by the election authority, as appropriate for the make, model, and version of the system in use.

(6) After completing the procedures in sections (3)–(5), the memory components shall be removed from any unit that will not be returned to the central location on election night or shall remain sealed in any unit that will be returned to the central location, as appropriate for the make, model and version of the system in use. The DREs and Precinct Counters shall be turned off and secured in their cases and locked or resealed. The number of each seal shall be entered on the appropriate form along with the serial number of the unit or unit case on which it is used. The units or cases shall then be secured.

(7) Any provisional ballots, optical scan ballots, spoiled ballots, paper cast vote records and memory components shall be secured in tamperproof containers securely sealed in such a manner that if the container is opened, the seal will be broken beyond repair.

(8) Audit trail tapes, voter access cards, supervisor's card, ballot encoder devices, precinct binders, numbered lists of voters, voter certificates, recap sheets, and other such paperwork shall be transported to the election authority. In the event the paper cast vote record is unreadable, the audit trail tapes shall be available as an official record when a manual recount of votes is ordered.

(9) All paper cast vote records shall be preserved and secured by election judges in the same manner as paper ballots and shall be available as an official record when a manual recount of votes is ordered and for the post-election verification of the electronically tabulated vote results required by 15 CSR 30-10.060.

AUTHORITY: section 115.225, RSMo Supp. 2005.* Emergency rule filed June 21, 2006, effective July 1, 2006, expired Feb. 22, 2007. Original rule filed June 21, 2006, effective Dec. 30, 2006.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002.

15 CSR 30-10.160 Electronic Ballot Tabulation—Election Procedures (DREs and Precinct Counters)

PURPOSE: This rule provides procedures to be used by election authorities using Optical Scan Precinct Count voting systems (Precinct Counters) and Direct Recording Electronic (DREs) voting systems for securing and tabulating election results at the central location.

(1) Each unit or case shall only be opened in the presence of a bipartisan team which shall verify the accuracy of the seal number before the seal is broken.

(2) The election authority shall be responsible for ensuring that sufficient certificates or log entries are made on each transfer of DREs, Precinct Counters, memory components, paper cast vote records and ballots to accurately recreate each movement of the DRE, Precinct Counter, memory components, paper cast vote records and ballots. Each transfer shall include a statement that no election material was added, subtracted or altered except as provided by statute or rule and that no irregularities were noticed unless otherwise noted.

(3) The election authority or his/her representative shall be on hand at all times in the counting center when the ballots, paper cast vote records and memory components are unsealed. The units and containers shall be unsealed in the presence of bipartisan teams which shall verify that the seal is intact, and verify the seal number where numbered seals are used, before the seal is broken. When sealing and unsealing the containers, the members of the bipartisan teams shall verify the seal numbers by their signatures on a log sheet designed for that purpose.

(4) The tabulation and consolidation shall be performed in public. The election authority may make reasonable rules and regulations for conduct at the tabulating center, including limiting access to the tabulation area, to ensure the security of the results and the returns and to avoid interference with the tabulating center personnel.

(5) Upon receiving the DREs, Precinct Counters, memory components, paper cast vote records and ballots, the election authority shall verify that the seals are intact, verify the seal number where numbered seals are used and that there is no evidence of tampering with the units, cases, containers or their contents.

(6) Following acceptable procedures appropriate for the make, model, and version of the DRE or Precinct Counter in use, the election authority or his/her designee shall transfer the vote totals from the memory components into the election management system for official tabulation and consolidation.

(7) Prior to certification of the election results, the accuracy certification team(s) shall tabulate the same set of votes used in the pre-election internal logic and accuracy test performed pursuant to 15 CSR 30-10.140(6)(C) on each memory component used at the polling locations to tabulate votes on DREs and Precinct Counters. This section shall not apply to any memory component on which election results are stored

(A) If the results are not identical to those produced in the pre-election test for any memory component, the team shall not certify that the unit in which that component was used was operating properly.

1. In the case of a Precinct Counter, the necessary corrections shall be made to the program until the results are identical and the ballots cast on the Precinct Counter in which the memory component was used shall be retabulated and the consolidated results corrected accordingly.

2. In the case of a DRE, the paper cast vote records produced by the unit in which the memory component was used shall be hand counted and the consolidated results corrected accordingly.

(B) If the results are identical, the team shall certify that the unit was operating properly.

(8) The paper cast vote records audit trail tapes and ballots shall be kept secured until they must be unsealed to be hand counted in the post-election verification of electronic results pursuant to 15 CSR 30-10.110 or until

they must be unsealed to be hand counted when a manual recount of votes is ordered. They shall only be unsealed in the presence of bipartisan teams which shall verify that the seal is intact, before the seal is broken and which shall reseal the containers in such a manner that if the container is opened, the seal will be broken beyond repair after the post-election audit or the manual recount is complete. When sealing and unsealing the containers, the members of the bipartisan teams shall verify the seal numbers by their signatures on a log sheet designed for that purpose.

AUTHORITY: section 115.225, RSMo Supp. 2005.* Emergency rule filed June 21, 2006, effective July 1, 2006, expired Feb. 22, 2007. Original rule filed June 21, 2006, effective Dec. 30, 2006.

*Original authority: 115.225, RSMo 1977, amended 1993, 1995, 2002.