

Wyoming Secretary of State
Rules for Using Provisional Ballots

CHAPTER 4

Section 1. Authority.

These rules are authorized by W.S. 22-2-121(b) and (d) and are necessary to implement Section 302 of the Help America Vote Act of 2002 [hereafter referred to as HAVA], P.L. 107-252.

Section 2. Purpose.

These rules are promulgated to enable state and local Wyoming election officials and employees to administer W.S. 22-1-102(a)(xli) and W.S. 22-15-105 and the requirements of HAVA relating to provisional ballots uniformly and efficiently.

Section 3. Applicability.

These rules apply to all state and local election officials, employees, and poll workers by whatever designation with responsibilities concerning provisional ballots, and to all voters and prospective voters.

Section 4. Use of Provisional Ballots.

Prospective voters shall be permitted to cast provisional ballots as provided in W.S. 22-1-102(a)(xli), 22-3-118, and 22-15-104 and 106. Also, when the polls are kept open after 7:00 p.m. by court order or by Emergency Directive of the Secretary of State, all voters entering the polls after 7:00 p.m. shall be permitted to cast provisional ballots only.

Section 5. Provisional Voting Form.

(a) The provisional voting form shall contain:

(i) Instructions for poll workers regarding appropriate use of provisional ballots consistent with Section 4, Use of Provisional Ballots;

(ii) Instructions to voters regarding how, when, and where they must provide documentation showing their eligibility to vote in the precinct;

(iii) Instructions to voters regarding how and when to determine if a ballot was counted by the County Canvassing Board; and

Wyoming Secretary of State
Rules for Candidates

CHAPTER 18

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting procedures and orderly voting.

Section 2. Purpose.

These rules are promulgated to establish procedures for candidates filing for office.

Section 3. Applicability.

These rules apply to all candidates whose names appear on a ballot of an election administered by a county clerk.

Section 4. Campaign Requirements.

(a) Candidates are required to file in specific filing offices. At the time of filing, candidates are to be provided with the following information and time-line requirements:

- (i) A copy of the candidate campaign guide;
- (ii) Receipts reporting form; and
- (ii) Receipts and Expenditures reporting form.

(b) The candidate filing period closes at 5 p.m. on the last day of the filing period.

Section 5. Candidate Withdrawal.

(a) These rules apply to all candidates whose name appears on the ballot of an election administered by a county clerk and are to be used when a candidate withdraws from an election.

(b) Upon receipt of written and signed notification by a candidate of his intention to withdraw from a race, a candidate's name will be removed from the ballot. If the ballot has been finalized and approved for printing prior to

notification, the county clerk will prominently post a notice at each polling place declaring the withdrawal. The notice shall state the full name of the candidate as it is printed on the ballot, the office the candidate was seeking, and all other pertinent information the clerk deems helpful to the voters. If the withdrawal notice is received by a filing office other than the county clerk, a copy of the withdrawal will be immediately transferred to the county clerk conducting the election.

(c) Prior to Election Day, but during absentee voting, the notice shall be posted in a prominent location at all absentee voting locations so it is easily visible to all absentee voters. A withdrawal notice shall be included with all absentee ballots mailed to voters.

(d) If time allows, notice should be provided with the publication of the sample ballots and polling place information.

(e) Once a candidate has withdrawn his name from the election, he may not subsequently change his mind and request his name be placed on the ballot. If the nomination period has not yet closed, a candidate who has withdrawn may file another application.

Section 6. **Candidate Name.**

(a) A candidate is required to use his full name on his application for nomination or election. Fictitious or pseudo names will not be allowed. The Secretary of State or a county clerk may ask for verification of name at time of filing. A candidate may not change his name after the application period for nomination or election has closed.

(b) A candidate may not change the ballot name he used on his application between the primary and general election. For example, because of the confusion it could cause the voter, a person who marries or divorces between the primary and general election will not be permitted to change his ballot name on the ballot.

Wyoming Secretary of State
Rules for Voter Registration

CHAPTER 16

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting, to maintain orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. Purpose.

These rules are promulgated to establish standards and procedures for voter registration.

Section 3. Applicability.

These rules apply to all voters and local election officials with responsibilities as designated in W.S. 22-8-101, *et seq.*

Section 4. Completion of Voter Registration Application.

(a) **Party Affiliation.** Voters must select one of the currently recognized political parties or select "unaffiliated" on the voter registration (VR) application. If a recognized party loses status, the affiliation of the voter will remain in the voter registration database, but will appear as unaffiliated on all reports unless the voter formally changes his affiliation to a currently recognized party.

(b) The uniformed statewide voter registration application form will be prescribed by the Secretary of State and can be found on-line. This form may be filled in on-line or printed and filled in prior to signing, but it shall only be signed in front of a registry agent.

Section 5. Voter Registration Drives.

(a) County clerks may not accept batches of voter registration applications. An individual must submit his voter registration application in person or by mail, and said application must comply with the requirements of W.S. 22-3-103.

(b) County clerks may not conduct voter registration drives except in a public area that is owned or occupied by a political subdivision or governmental institution, agency, or entity.

(c) All copies of identification submitted in accordance with W.S. 22-3-117(a) and 22-3-118(c) shall be attached to the voter registration application and shall be kept confidential in accordance with other voter registration information. All copies shall be retained for no less than twenty-four (24) months, or until a voter votes in person and presents identification at the polls, after which said documents can be destroyed.

Section 6. Cancelling a Voter Registration.

When the county clerk has information that a registration should be cancelled, he shall mail a notice to cancel pursuant to W.S. 22-3-116. The notice shall state that the cancellation shall occur within 20 days from the date the notice was mailed unless the elector asks that his name remain on the registry list. A felon who requests to remain on the list must provide proof that he is a qualified elector.

Wyoming Secretary of State
Rules for Election Results to the Secretary of State's Office

CHAPTER 15

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting and vote counting procedures and orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. Purpose.

These rules are promulgated to establish standards and procedures for sending official and unofficial election reports to the Secretary of State's Office, in accordance with W.S. 22-8-101, *et seq.*

Section 3. Applicability.

These rules apply to all local election officials with responsibilities as designated in W.S. 22-8-101, *et seq.*

Section 4. Election Night Results.

The county clerk shall submit unofficial results as prescribed by the Secretary of State's Office.

Section 5. Following the Canvass Board Meeting.

(a) The county clerk shall submit official results as prescribed by the Secretary of State's Office. This shall include:

- (i) The precinct-by-precinct results;
- (ii) Over and under votes;
- (iii) Write-in vote totals;
- (iv) Write-in names that could have affected the outcome of the races of interest to the secretary of state;
- (v) How many provisional votes were received;
- (vi) How many provisional votes were counted; and

(vii) Reason for rejection of provisional votes.

(b) The official canvass reports shall be signed by the county canvassing board.

(c) Official results shall be sent to the Secretary of State's Office via overnight delivery using Federal Express. If a county does not have access to Federal Express, results shall be sent using United States Postal Service (USPS) Express Mail. If neither overnight service is available, the county clerk shall request approval from the secretary of state to use an alternate overnight delivery system. All deliveries shall include the name and phone number of the contact person.

Section 6. **Emergency Procedures.**

The Secretary of State's Office shall have a written procedure on alternative ways to report the unofficial and official results should it be impossible to report in the normal method.

Section 7. **Recount.**

When a county clerk conducts a retabulation following an election, such retabulation may constitute a recount pursuant to W.S. 22-16-109(b).

Wyoming Secretary of State
Rules for Election Judges and Counting Board Members

CHAPTER 13

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting, vote counting procedures and orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. Purpose.

These rules are promulgated to establish standards and procedures for judges of election and counting boards, in accordance with W.S. 22-8-101, *et seq.*

Section 3. Applicability.

These rules apply to all local election officials with responsibilities as designated in W.S. 22-8-101, *et seq.*

Section 4. Duties of the County Clerk.

(a) The county clerk shall appoint judges and counting board members in compliance with statutes.

(b) The county clerk has the authority to determine who will be and who will not be an election judge or counting board member. At the discretion of the county clerk, a candidate may be allowed to serve as a judge in a precinct where his/her name will not appear on the ballot.

Section 5. Duties of Election Judges and Counting Board Members.

(a) Election judges shall inventory ballots delivered pursuant to W.S. 22-12-108, and the total shall be marked in the poll book.

(b) Election judges shall continually verify the number of voters by checking the poll book numbering with the number of voted ballots displayed on the voting machine.

(c) Election judges shall document any discrepancies during the day by recording the discrepancy, the time, and any possible problems encountered.

(d) Election judges shall report errors or problems with the voting equipment to the County Clerk's Office as soon as possible.

(e) After polls are closed, election judges shall count the unused and spoiled ballots to balance the inventory of ballots they received and keep a log of such inventory at the polling place.

(f) Counted ballots shall be locked in a container and sealed. the seal shall remain on the container until returned to the County Clerk.

(g) At the close of the polls, election judges shall secure all equipment, using the procedures established by the equipment manufacturer, the county clerk and the rules.

(h) Election judges and counting board members shall return all voting supplies, inventory logs and ballot boxes to the county clerk as soon as possible.

(i) Election judges shall provide assistance to curbside voters as provided in the statutes and rules.

(j) Election judges and counting board members shall not post or give out unofficial results to anyone other than the county clerk.

Section 6. Absentee Ballots.

(a) For absentee ballots that are counted at the polling place location:

(i) If the voter has already voted in person, the absentee ballot will be rejected.

(ii) If the absentee ballot has been processed, that voter may not vote in person.

(iii) If the county has a counting center, an election judge shall attempt to call the county clerk to verify that the person has not already voted by absentee ballot. The county clerk will verify that an absentee ballot has not been received before approving that the voter may receive a ballot from the judges at the polls. If the judge is not able to reach the county clerk, the judge shall offer to let the voter vote a provisional ballot. The decision to count the provisional ballot will be decided by the canvass board.

(b) In any instance, the first ballot processed shall be considered the voter's only official ballot.

Section 7. **Student Election Judges.**

(a) An election judge under the age of 18 (student election judge) is qualified to subscribe to an oath and may also be allowed to register persons to vote.

(b) A student election judge must fill out the proper application form, which is provided by the Secretary of State's office.

Section 8. **Judges' Work Schedule.**

(a) The county clerk shall determine if election judges may work split shifts during an election. The county clerk shall:

(i) Determine which precincts, if any, may use split shifts.

(ii) Set specific hours to be worked.

(iii) Insure that each shift includes an equal number of judges representing the major political parties. If major political parties cannot be represented, the county clerk is authorized to use nonaffiliated (non partisan) (independent) judges.

(b) The head or chief judge may not work a split shift.

(c) Election judges that are permitted to work a split shift shall:

(i) Stay at the polls until relieved from duty by a replacement election judge.

(ii) Shall complete all necessary paperwork required by the county clerk.

(iii) Shall sign a time sheet designating the time arrived and time departed.

(iv) Shall sign a log verifying that the reconciliation of the count has been completed and note any discrepancies and the reasons for such discrepancies.

(d) The county clerk may establish additional procedures for the smooth transition between shift election judges.

Wyoming Secretary of State
Rules for Certification

CHAPTER 12

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting and vote counting procedures and orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. Purpose.

These rules are promulgated to establish procedures for certification of electronic voting equipment.

Section 3. Applicability.

These rules apply to all electronic voting equipment used in Wyoming for federal or state elections.

Section 4. Application for Certification.

(a) Before any equipment or software is sold or upgraded, the vendor shall certify in writing to the Wyoming Secretary of State that the equipment or software:

(i) Meets the Voting Systems Performance and Test Standards, as adopted by the National Association of State Election Directors (NASSED) April 30, 2002. The report of an accredited independent testing authority, together with the NASSED or the Election Assistance Commission (EAC) certification number, certifying that the system is in compliance with the standards shall be submitted with the application for examination; and

(ii) Has been tested and certified under standards separately adopted and implemented in at least two states for use in federal elections in those states.

(b) The vendor shall provide the following documentation of the certification and testing in (a) above:

(i) Verified statement that the equipment or software meets federal law;

(ii) Verified statement that the equipment or software meets state law;

(iii) Verified statements from various other states certifying that the equipment has been tested and certified under standards adopted by those states for certification of election equipment.

(c) Upon written request by the secretary of state, the vendor shall submit the report from an accredited independent testing authority certifying that the system is in compliance with the voting systems standards, as required by (a)(i) above. This report is a third party document and shall not be released by the secretary of state, but will be deemed confidential.

(d) Vendors shall also provide the following as part of the certification process:

(i) All related manuals, including, but not limited to, technical manuals for repair and maintenance for the equipment or software, operations manuals for election officials, printer manuals for ballot production, and all other written documents prepared by the vendor that describe the operation, use, and maintenance of the equipment and software;

(ii) A current description of all related support arrangements for the equipment or software to be provided in Wyoming;

(iii) A list of applicable patents and copyrights on the equipment or software;

(iv) A history of the equipment, including a complete description of the equipment or software, the date the equipment or software went into production, and a complete list of jurisdictions which have used the equipment or software;

(v) A list of any written complaints or concerns made to the vendor by other jurisdictions including a description of the resolution of the complaints or concerns; and

(vi) An escrow account containing the source codes for the system and/or system components requested for certification.

Section 5. **Grounds for Denial or Withdrawal of Certification.**

(a) The secretary of state may deny or withdraw the certification of equipment or software for the following reasons:

(i) A county clerk notifies the secretary of state of a significant problem with the equipment or software or the secretary of state determines there is a significant problem with the equipment;

(ii) The secretary of state determines that the equipment fails to meet the requirements necessary for approval or continued compliance;

(iii) The secretary of state determines there is a need for significant enhancements or adjustments to the equipment hardware or software;

(iv) The vendor fails to notify the secretary of state of significant enhancements or adjustments which are necessary to the equipment or software;

(v) The vendor fails to submit the equipment for re-examination by ITA or EAC upon written request by the secretary of state;

(vi) The equipment does not produce accurate results and reports as required by law;

(vii) Changes are made in the equipment that do not comply with the requirements for certification; or

(viii) The equipment is no longer used by any county in Wyoming or is no longer available for purchase or repair from the company.

Section 6. **Procedure for Withdrawal of Certification.**

(a) At any time after the certification of equipment, the secretary of state may withdraw such certification by complying with the following procedures:

(i) Written notice of the grounds for possible withdrawal is given to the vendor. Such notice shall include the following information:

(A) The reason(s) for possible withdrawal of certification;
and

(B) The date upon which certification may be withdrawn.

(ii) The vendor shall have thirty (30) days to respond to the notice of grounds for withdrawal of certification. The vendor's response shall contain one or more of the following:

(A) A description of the corrective measures taken;

(B) An explanation as to why the problem is not significant and the reason corrective measures do not need to be taken; or

(C) An explanation as to why there is no problem with the equipment.

(iii) After receiving the vendor's response, the secretary of state shall determine whether:

(A) The vendor's corrective measures are satisfactory;

(B) The explanations offered are satisfactory;

(C) Further explanation is necessary; or

(D) Withdrawal of certification is required.

(iv) The secretary of state shall notify the vendor and counties of its decision in writing within five (5) business days after it makes its determination.

(b) If the secretary of state determines that use of the equipment or software in question could jeopardize an election, the secretary of state may enter an emergency order immediately rescinding certification.

Section 7. Upgrades and Modifications in Equipment and Software.

The vendor shall notify the secretary of state in writing of all planned upgrades, patches, and modifications to the equipment. No upgrades, patches, or modifications shall be applied without written approval by the secretary of state.

Section 8. Purchasing New Equipment.

(a) Any new equipment or software that is purchased by either the state or county must be certified pursuant to these rules. All systems, equipment and services sold by any vendor must be tested and certified under the standards provided by HAVA and NASED/EAC, warranted to meet the requirements of HAVA for future federal elections, and acknowledged to have been tested and certified under standards separately adopted and implemented in various states for use in future elections in those states.

(b) Any updates, patches or add-ons offered to the state or county shall also be certified by the vendor to meet the standards set out in these rules.

(c) In order to facilitate compliance with HAVA and state election laws, no county shall purchase any new equipment, trade old equipment for new equipment, or install any updates, patches or add-ons without the prior written notification to the Secretary of State.

(d) Counties must keep an inventory of all equipment and must keep track of all items purchased with HAVA funds, including items that were purchased with HAVA funds and later traded.

(e) Counties shall verify on a form, provided by the Secretary of State, the serial numbers of all equipment that is being used in the county to conduct a federal election. Counties shall keep a copy of the form and shall mail the original to the Secretary of State. This form shall be updated within two weeks of the purchase, trade or installation of any new equipment.

Wyoming Secretary of State
Rules for Ballot on Demand

CHAPTER 11

Section 1. **Authority.**

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting, vote counting procedures and orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. **Purpose.**

These rules are promulgated to establish procedures for the use of ballot on demand printers that will be used to prepare ballots in accordance with Chapter 6 of Title 22 of the Wyoming Statutes.

Section 3. **Applicability.**

All applicable provisions of the Wyoming Election Code shall apply to the use of a ballot on demand printer for all elections.

Section 4. **Use of Ballot on Demand Printers.**

(a) The county clerk may utilize a ballot on demand printer supplied by the voting equipment vendor to print ballots for any election.

(b) All ballots printed using a ballot on demand printer must comply with the requirements of W.S. 22-6-115 through 22-6-127.

Section 5. **Testing Ballots and Certification.**

(a) Ballots produced using a ballot on demand printer must be tested, as specified by the manufacturer and by the county clerk using the voting equipment.

(b) The county clerk shall retain a marked test deck of ballots produced using a ballot on demand printer.

(c) The county clerk shall attest in writing to the Secretary of State that the ballot on demand printers have been tested and are ready for election.

Section 6. **Paper Stock and Security.**

(a) Ballots printed on the ballot on demand printer shall be printed in such a manner that meets the specifications of the voting machine manufacturer.

(b) The county clerks shall have written procedures to protect the security and inventory of all blank paper stock used for printing ballots on the ballot on demand printers.

Section 7. **Inventory.**

(a) Equipment purchased with HAVA funds shall be identified as such. All equipment must be certified as being HAVA compliant.

Wyoming Secretary of State
Rules for AutoMARKS

CHAPTER 10

Section 1. **Authority.**

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting, vote counting procedures and orderly voting and to comply with the requirement of the Help America Vote Act of 2002 (HAVA), Public law 107-252.

Section 2. **Purpose.**

These rules are promulgated to establish standards and procedures for AutoMARK devices.

Section 3. **Applicability.**

These rules apply to the use of AutoMARK devices by voters and to all election officials with responsibilities as designated in WS 22-8-101, *et seq.*

Section 4. **AutoMARK.**

(a) The AutoMARK device allows a voter to mark his ballot by inserting the paper ballot into the AutoMARK device, which in turn displays the ballot on a screen, commonly referred to as a touch screen. The voter makes his selection by touching the screen or navigation and entry buttons. The selections are then marked on the ballot. The marked ballot is then returned to the voter to be placed in the M100 tabulator.

(b) For write-in instructions, see Chapter 19, rules for Write-ins.

(c) Once the marked ballot is returned from the AutoMARK, the voter then places it in the M100 to be tabulated with all other ballots.

Section 5. **Preparation, ~~and~~ Testing and Certification.**

(a) Preparation and testing of the AutoMARK units may begin after the official ballot has been programmed, proofed, and the visual and audio databases are accepted by the County Clerk.

(i) **Preparation.**

(A) **Memory Cards.** One memory card, or flash card, shall be created from the accepted ballot database for each AutoMARK to be used in the election.

(ii) **Testing.**

(A) **Public Test.** The county clerk shall notify in writing, as specified in W.S. 22-10-108, the chairman of each political party informing them of the date, time, and place for testing the voting machines. The political party representatives and representatives of independent candidates may be present at the testing of the voting machines. Other witnesses may also be present.

(B) AutoMARK devices shall be tested as follows:

(I) Affirmation that the voter can change his candidate choice before marking his ballot;

(II) Affirmation that a voter cannot overvote;

(III) Affirmation that the ballot is accurately marked;

(IV) Affirmation that the audio is clearly recorded, understandable, and usable with the touch pad; and

(V) Affirmation that the ballot marked by the AutoMARK is accurately read by the ballot tabulating machine.

(iii) **Certification to the Secretary of State.**

The county clerk shall attest in writing to the Secretary of State that the AutoMARK devices have been publicly tested and are ready for the election.

Section 6. Inventory and Security of AutoMARKs.

(a) **Sealing the AutoMARKs.** Following the public test and prior to the dispatching of the AutoMARKs to the polling locations, the following inventory and security precautions shall be taken:

(i) **Inventory.**

(A) All AutoMARKS have a serial number that shall be recorded and kept on file in the county clerk's office. Serial numbers shall be provided to the secretary of state upon request. The serial number record shall be updated immediately when equipment is replaced or added. Equipment purchased with HAVA funds shall be identified as such. All equipment must be certified as being HAVA compliant.

(B) The number of the seal on the memory card access door shall be noted on the testing certificate.

(ii) **Security.**

(A) The memory card access door shall be locked and sealed with a pre-numbered, non removable seal.

(B) The number of the seal of the memory card access door shall be noted on the testing certificate.

(C) The testing certificate shall be signed by the county clerk and representatives of each major political party, if any, that are present for the public test (as directed by W.S. 22-10-109) and kept on file in the county clerk's office for a minimum of 22 months or until any election contest affected by the ballots has been terminated.

(D) The clerk may require all witnesses to the public test to sign an attendance sheet that attests to their presence and witnessing of the testing of the voting systems equipment.

(E) All documentation of incidents occurring with the AutoMARK shall be returned to the county clerk's office according to the procedures.

(F) AutoMARKs shall be stored in a secure facility, meeting manufacturer's specifications, with controlled access to only authorized personnel.

Section 7. Supplies.

(a) Fresh printer cartridges and pre-numbered seals shall be supplied with each AutoMARK. The county clerk shall determine the appropriate number of each to be supplied.

Wyoming Secretary of State
Rules for Direct Recording Electronic Devices

CHAPTER 9

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting, vote counting procedures and orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. Purpose.

These rules are promulgated to establish standards and procedures for direct recording electronic devices.

Section 3. Applicability.

These rules apply to the use of direct recording electronic devices (DREs) by voters and to all election officials with responsibilities as designated in W.S. 22-8-101, *et seq.*

Section 4. Direct Recording Electronic Device.

(a) The direct recording electronic device allows a voter to record his vote by making choices on a ballot displayed on a screen commonly referred to as a touch screen. The voter touches the screen to make his selections which are then recorded on redundant memory devices, one of which has an internal hard drive and the other which has a removable memory card.

(b) For write-in instructions, see Chapter 19, rules for Write-ins.

(c) At the close of the polls, the election judges shall close out voting and print the results from the DRE, using the procedures established by the equipment manufacturer and the county clerk. The DRE results contain the vote totals for each candidate, write-in candidates, ballot issues, and other election and precinct information.

Section 5. Preparation, Testing, ~~and Sealing~~ and Certification of DREs.

(a) Preparation and testing of the DRE units may begin after the official ballot has been programmed, proofed, and the visual and audio databases are accepted by the county clerk.

(i) **Preparation.**

(A) **Memory Cards.** One memory card shall be created from the accepted database for each DRE to be used in the election. A master memory card shall be created and secured by the county clerk.

(B) **Voter Access Cards.** All voter access cards shall be cleared prior to use in testing or the election. All access cards used for testing shall be cleared prior to election day.

(ii) **Testing.**

(A) **Voter Verifiable Paper Audit Trail (VVPAT).** The VVPAT printer shall be tested according to manufacturer requirements and procedures established by the county clerk. Each printer module shall be supplied with a fresh roll of paper following testing and prior to election day.

(B) **Public Test.** The county clerk shall notify in writing, as specified in W.S. 22-10-108, the chairman of each political party informing them of the date, time, and place for testing the voting machines. The political party representatives and representatives of independent candidates may be present at the testing of the voting machines. Other witnesses may also be present.

(C) Voting machines shall be tested for the following:

(I) Affirmation that a voter can change his candidate choice before casting his vote;

(II) Affirmation that a voter cannot overvote;

(III) Affirmation that votes are accurately counted;

(IV) Affirmation that the VVPAT prints a record for each vote cast;

(V) Affirmation that a hard copy of the image of each vote cast by a voter can be created, independent of the VVPAT record; and

(VI) Affirmation that the audio is clearly recorded, understandable, and usable with the touch pad.

(iii) **Sealing the DREs.** Following the public test and prior to dispatching the DREs to the polling locations, the following inventory and security precautions shall be taken:

(A) The serial number of the DRE shall be listed on the inventory.

(B) The number of the seal on the memory card access door shall be noted on the inventory and testing certificate.

(C) The memory card access door shall be locked and sealed with a pre-numbered, non-removable seal.

(D) The number of the seal of the memory card access door shall be noted on the testing certificate.

(E) The DRE's counter shall be set to zero (0000) and noted on the testing certificate.

(F) The testing certificate shall be signed by the county clerk and representatives of each major political party, if any, that are present for the public test (as directed by W.S. 22-10-109) and kept on file in the county clerk's office for a minimum of 22 months or until any election contest affected by the ballots has been terminated.

(G) The clerk may require all witnesses to the public test to sign an attendance sheet that attests to their presence and witnessing of the testing of the voting systems equipment.

(H) The power switch access door shall be sealed with a pre-numbered, non-removable seal that shall only be removed by the election judges on election day at the time the DRE is activated for voting.

(I) On election day, the election judges shall ensure the VVPAT is properly connected to the DRE and then seal the printer canister with a pre-numbered seal. The seal number shall be noted for security purposes.

(J) When a VVPAT paper roll requires replacing on election day, two election judges, from different political parties, shall replace the printer canister and paper roll and seal the printer canister as specified above. If a printer canister is not available, the paper roll may be removed from the canister and sealed in an envelope or other secure container as specified by the county clerk. The judges shall note the number of the seal used to secure the paper roll.

(K) All sealed printer canisters, paper rolls, and documentation shall be returned to the county clerk's office according to the procedures.

(iv) Certification to the Secretary of State.

The county clerk shall attest in writing to the Secretary of State that the DRE devices have been publicly tested and are ready for the election.

Section 6. Inventory and Security of the DREs.

(a) Inventory.

(i) All DRE machines and memory cards have a serial number that shall be recorded and kept on file in the county clerk's office. Serial numbers shall be provided to the secretary of state upon request. The serial number record shall be updated immediately when equipment is replaced or added. Equipment purchased with HAVA funds shall be identified as such. All equipment must be certified as being HAVA compliant.

(b) Security.

(i) The county clerk shall be diligent in maintaining security of the machines.

(ii) All equipment shall be stored in a secure facility, meeting manufacturer's specifications, with controlled access to only authorized personnel.

Section 7. Supplies.

(a) Fresh rolls of paper, printer canisters, and pre-numbered seals shall be supplied with each VVPAT. The county clerk shall determine the appropriate number of each to be supplied.

Wyoming Secretary of State
Rules for Optical Scan Voting Machines

CHAPTER 8

Section 1. Authority.

The Secretary of State, pursuant to W.S. 22-2-121, is authorized to promulgate such rules as are necessary to maintain uniform voting, vote counting procedures and orderly voting and to comply with the requirements of the Help America Vote Act of 2002 (HAVA), Public Law 107-252.

Section 2. Purpose.

These rules are promulgated to establish standards and procedures for the preparation, testing and sealing of the optical scan voting machines.

Section 3. Applicability.

These rules apply to all local election officials with responsibilities as designated in W.S. 22-8-101, *et seq.*

Section 4. Optical Scan Voting Machines.

(a) Optical scan voting machines allow a voter to record his vote by marking a paper ballot. The marked ballot runs through an electronic scanner in the machine which reads the marks and records the votes. The voting machine uses a removable memory card programmed to read the marked ballots and tabulate the results.

(b) For write-in instructions, see Chapter 19 Rules for Write-Ins.

(c) All machines, including backup machines and central count machines, must be tested in accordance with statutes and these rules.

Section 5. Optical Scan Ballots.

(a) Ballots to be read by the optical scan machine must be printed on paper stock approved or recommended by the optical scan machine manufacturer.

(b) Ballots to be read by the optical scan machine must be printed by a qualified printer approved by the manufacturer of the optical scan machine.

(c) Upon receipt of ballots from the printer, the county clerk must check ballots for general accuracy, for rotation, for correct title, for correct precinct and splits, for spelling, for office terms and for the “vote for” language.

(d) Ballots must be housed in a secure location with limited access. The county clerk will prevent unauthorized access to official election ballots.

(e) Ballots will be counted and recorded on a written inventory:

- (i) When delivered from the printer;
- (ii) As they are used for test decks and absentee voting; and
- (iii) As they are sent to the polls;

(f) The election judges shall count and record on a written inventory the number of ballots received, spoiled and voted at the polling place. The polling place inventory shall be delivered to the county clerk following the election.

Section 6. Preparation, Testing, and Sealing and Certification of Optical Scan Voting Machines.

(a) Testing and sealing of the optical scan machines may begin after the official ballots are received from the printer.

(i) **Preparation.**

(A) The memory cards will be programmed so the machines will function as follows:

(I) Blank ballots are returned to the voter for action.

(II) Over voted ballots are returned to the voter for action.

(III) If the voter under voted a race or races, the ballot will not be returned to the voter, but will be automatically accepted by the machine.

(IV) Write-in votes on any ballot will cause the ballot to be sorted to a write-in collection bin.

(B) Test decks shall be prepared using official ballots for the election. The test deck can be produced manually by the clerk or by a qualified vendor. Test decks are defined as pre-marked optical-scan ballots marked in a manner that will test whether:

- (I) Each proposal or candidate can receive votes.
- (II) Marked selections are attributed to the correct choice.
- (III) The machine correctly registers a non-vote.
- (IV) The machine does not count an over-vote.
- (V) Properly voted ballots are accurately counted.
- (VI) The machine is properly programmed to handle ballots according to rules.

(C) The prepared test decks will be manually tabulated and recorded on a test deck comparative sheet. The manual results will be compared with the results generated by the optical scan machine.

(D) Logic and accuracy testing, as required by the optical scan machine manufacturer, shall be conducted.

(ii) **Testing.**

(A) **Public Test.** The county clerk shall notify in writing, as specified in W.S. 22-10-108, the chairman of each political party informing them of the date, time, and place for testing the voting machines. The political party representatives and representatives of independent candidates may be present at the testing of the voting machines. Other witnesses may also be present.

(B) The test decks will be run through each machine to be used in the election.

(I) When a blank ballot or over-voted ballot is rejected by the machine and returned to the voter for action, the over-ride button should be pressed to accept the ballot. The action should appear on the audit tape showing an over-voted or blank ballot was accepted.

(C) After all ballots have been inserted, testers will close the polls and request a results tape.

(I) The results on the results tape are compared to the manual tabulation on the test deck comparative sheet. The results tape of the test will verify that the test started with zero ballots recorded in the machine and that the results match the comparative sheet.

(II) The testing certificate shall be signed by the county clerk and representatives of each major political party, if any, that are present for the public test (as directed by W.S. 22-10-109) and kept on file in the county clerk's office for a minimum of 22 months or until any election contest affected by the ballots has been terminated.

(III) The clerk may require all witnesses to the public test to sign an attendance sheet that attests to their presence and witnessing of the testing of the voting systems equipment.

(D) The machine must be reset to zero and a tape run to display zero ballots or votes in the machine memory.

(E) If any machine displays discrepancies that cannot be resolved, that particular machine shall be replaced or fixed before it is used in an election. No certificate of testing will be issued for the machine until it has successfully passed testing with public witnesses.

(iii) **Sealing.**

(A) At the conclusion of a successful public test, the optical-scan machine will be sealed by the county clerk with the memory card in place and in the presence of the political party representatives, if any. Alternatively, the tested memory cards can be sealed separately from the optical-scan machine. The county clerk and representatives of each major political party, if any, that are present for the public test (as directed by W.S. 22-10-109) shall sign a certification listing the seal number of the machine or the memory card and attesting to the sealing which shall be kept on file in the county clerk's office for a minimum of 22 months or until any election contest affected by the ballots has been terminated.

(iv) **Certification to the Secretary of State**

The county clerk shall attest in writing to the Secretary of State that the optical-scan machines have been publicly tested and are ready for the election.

~~(iv)~~ (v) **Records.**

(A) All test decks, comparative sheets, results tapes and signed testing documents and certifications shall be secured and kept on file in the county clerk's office for a minimum of 22 months or until any election contest affected by the ballots has been terminated.

Section 7. **Inventory, Security and Maintenance of Optical Scan Machines.**

(a) The county clerk shall be diligent in maintaining security of the machines.

(i) **Inventory.**

(A) All optical scan machines have a serial number that shall be recorded and kept on file in the county clerk's office. Serial numbers shall be provided to the secretary of state upon request. The serial number record shall be updated immediately when equipment is replaced or added. Equipment purchased with HAVA funds shall be identified as such. All equipment must be certified as being HAVA compliant.

(ii) **Security.**

(A) All keys and peripherals to the machines shall be maintained in a secure location in the county clerk's possession.

(B) All equipment shall be stored in a secured area that meets manufacturer's environmental specifications. Access shall be controlled and limited to authorized personnel.

(C) The County Clerk is responsible for the location of all optical scan machines.

(iii) **Maintenance.**

(A) County clerks shall insure the optical scan machines are routinely maintained.

(iv) The name, street address, telephone number, and business hours of the County Clerk for the day following election day.

(b) The provisional voting form shall also provide space for the following information to be recorded:

- (i) Election date;
- (ii) County name;
- (iii) District and precinct numbers;
- (iv) Poll worker's name; and
- (v) The reason for issuing the provisional ballot.

Section 6. **Provisional Ballots and Secrecy Envelopes.**

(a) Provisional ballots shall be clearly marked as such and shall be of a form that cannot automatically be tabulated [W.S. 22-15-105]. They may be:

- (i) Photocopies of the regular ballot with "Provisional Ballot" clearly printed at the top;
- (ii) Regular ballots with the bar code disabled; or
- (iii) Another form that satisfies the above requirement.

(b) Provisional ballots shall have the county number listed first followed by any sequence of numbers desired (such as a district/precinct number) as long as there is no possibility of a duplicate number.

~~(b)-(c)~~ Provisional ballots, when completed, shall be sealed in secrecy envelopes.

~~(c)-(d)~~ The outside of the secrecy envelope shall bear the affirmation prescribed by W.S. 22-15-105(b).

Section 7. **Handling of Provisional Voting Forms and Provisional Ballots.**

(a) A poll worker will fill out the provisional voting form for the voter.

(b) The two pages of the form shall be separated, and the first page retained by the poll worker.

(c) The second page of the form shall be returned to the voter.

(d) The voter shall execute the oath or affirmation on the secrecy envelope, seal his or her completed ballot in it, and return it to the poll worker.

(e) Provisional ballots shall be secured and segregated from other ballots. They shall not be included in the election day tabulation of votes.

(f) Provisional ballot envelopes shall be marked by county number first and then each provisional ballot envelope shall have a unique number following the county number.

Section 8. Post Election Processing of Provisional Ballots.

(a) After the time allowed for provisional voters to present documentation of their right to vote in an election, election officials shall attach the documentation provided to each provisional ballot envelope.

(b) The provisional ballots and their attachments shall be forwarded to the County Canvassing Board for its review and determination of the validity of each.

(c) The County Canvassing Board shall conduct its business concerning the validity of the provisional ballots in such a manner as to protect the confidentiality of the votes (which is most critical when there are few valid provisional ballots) and the privacy rights of the provisional voters. At a minimum, these shall include their identity and their confidential personal information. The Board shall meet in executive session as required to do so.

(d) Those voters casting provisional ballots who are determined to be eligible to vote in the precinct shall have their provisional ballots counted and the results of the entire ballot shall be added to the unofficial results of the election.

Section 9. Reports of Provisional Ballots Cast and Counted.

When the abstracts, including the provisional ballot results, have been reviewed and certified by the County Canvassing Board, they shall immediately be forwarded to the Office of the Secretary of State.