

CHAPTER 22  
VOTING SYSTEMS

[Prior to 7/13/88, see Secretary of State[750] Ch 10]

TESTING AND EXAMINATION OF VOTING EQUIPMENT

**721—22.1(52) Definitions for certification of voting equipment.**

*“Accredited independent test authority”* means a person or agency that was formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software. “Accredited independent test authority” also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.

*“Audio ballot”* means the presentation of the contents of a ballot on a direct recording electronic voting machine in a recorded format, played to the voter over headphones. An audio ballot is used to make voting accessible to persons with visual disabilities.

*“Automatic tabulating equipment”* means apparatus, including but not limited to electronic data processing machines, that are utilized to ascertain the manner in which optical scan ballots have been marked by voters or by electronic ballot marking devices, and count the votes marked on the ballots.

*“Ballot”* means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more paper ballots. The term includes paper ballots designed to be read by automatic tabulating equipment. In appropriate contexts, “ballot” also includes conventional paper ballots.

*“Ballot marking device”* means a pen, pencil, or similar writing tool, or an electronic device, all designed for use in marking an optical scan ballot, and so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

*“Certification”* means formal approval of voting machines or optical scan voting systems for use in Iowa pursuant to Iowa Code sections 52.5 and 52.26 and 2007 Iowa Acts, Senate File 369, section 7.

*“Early voting”* means the process of receiving ballots from voters before election day without using absentee voting procedures. Iowa law does not authorize this process.

*“Electronic ballot marking device”* means a component of an optical scan voting system designed to assist voters with disabilities by displaying audio and visual ballot information to the voter, providing accessible methods for the voter to make selections, and then printing the voter’s choices on an optical scan ballot.

*“Electronic transmission”* means using hardware and software components to send data over distances both within and external to the polling place and to receive an accurate copy of the transmission.

*“Examiners”* means the board of examiners for voting systems described in Iowa Code section 52.4 as amended by 2007 Iowa Acts, Senate File 369, section 28.

*“Optical scan ballot”* means a printed ballot designed to be marked by a voter with a ballot marking device and to be counted by use of automatic tabulating equipment.

*“Optical scan voting system”* means a system employing paper ballots under which votes are cast by voters by marking paper ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

*“Program”* means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

*“Qualification test”* means the examination and testing of a voting system by an independent test authority using the voting system standards required by Iowa Code section 52.5 and rule 721—22.2(52) to determine whether the system complies with those standards.

“*Vendor*” means a person or representative of a person owning or being interested in a voting machine or optical scan voting system seeking certification of the equipment for use in elections in Iowa.

“*Voting booth*” means an enclosure designed to be used by a voter while marking a conventional paper ballot, optical scan ballot or ballot card.

“*Voting equipment*” means voting machines and optical scan voting systems which are required by Iowa Code sections 52.5 and 52.26 and 2007 Iowa Acts, Senate File 369, section 7, to be approved for use by the examiners.

“*Voting machine*” means a direct recording electronic device meeting the requirements of 2007 Iowa Acts, Senate File 369, section 7, subsections 1 and 2, and designated for use in casting, registering, recording, and counting votes at an election.

“*Voting system*” means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). “*Voting system*” also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

**721—22.2(52) Voting system standards.** All electronic voting systems and machines approved for use by the Board of Examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

**721—22.3(52) Examiners.** The examiners annually shall elect a chairperson. All three examiners must be present for any formal action. Approval by two of the three examiners is required to approve any action to be taken by the examiners.

**22.3(1)** Notice of the time and place of any meeting by the board of examiners must be published pursuant to Iowa Code section 21.4.

**22.3(2)** Meetings of the examiners are open to the public, except that closed meetings may be held as permitted by Iowa Code section 21.5.

**22.3(3)** Correspondence and materials required to be filed with the board of examiners shall be addressed to the examiners in care of the Elections Division, Office of the Secretary of State, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

**721—22.4(52) Fees and expenses paid to the examiners.**

**22.4(1)** The examiners shall be reimbursed for travel to and from the meeting place at the rate specified in Iowa Code section 70A.9. The examiners shall also be reimbursed for actual expenses for meals and lodging, if necessary.

*a.* If the meeting was called for the purpose of examining, reexamining, testing, or discussing the certification of voting equipment offered by a vendor, the examiners’ expenses shall be paid by the vendor within seven days following the completion of the examination and testing of the voting equipment.

*b.* If the meeting was called for the purpose of advising the secretary of state regarding administrative rules for the examiners, or to hear complaints or requests for decertification of voting equipment, or any other business of interest to the examiners, the expenses shall be paid by the secretary of state.

**22.4(2)** The vendor shall pay the examiners the amount of compensation specified in Iowa Code section 52.6 at the beginning of each meeting for which compensation is required to be provided to the examiners. The fee shall be paid as follows:

- a.* For each meeting or series of meetings held for the purpose of certifying a voting machine, electronic voting system or voting booth.
- b.* For each meeting or series of meetings for reconsideration of a voting machine, electronic voting system or voting booth after denial of certification.
- c.* If the examiners schedule examinations of voting booths offered by more than one vendor at a single meeting, the fee shall be divided equally among the vendors.
- d.* The examiners shall waive the examination fee if a voting booth is submitted for examination by a county commissioner of elections pursuant to rule 22.19(52).

This rule is intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

**721—22.5(52) Examination of voting equipment—application.** Any vendor who wishes to apply for certification of voting equipment for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

**22.5(1)** History of the equipment to be examined. This history shall include a complete description of the equipment to be examined, descriptions of any previous models of the equipment, the date the system to be examined went into production, and a complete list of jurisdictions which have used the equipment. The user list shall include jurisdictions which used the equipment experimentally without purchasing it, jurisdictions which purchased earlier versions of the equipment to be examined, and jurisdictions which purchased the current version of the equipment to be examined.

**22.5(2)** Copies of all manuals developed for use with the system including, but not limited to, technical manuals for repair and maintenance of the equipment, operations manuals for election officials, printer's manuals for ballot production, and any other written documents prepared by the vendor that describe the operation, use, and maintenance of the machine.

**22.5(3)** Report of an accredited independent test authority certifying that the system is in compliance with the voting systems standards required by rule 721—22.2(52). Copies of these reports are confidential records as defined by Iowa Code section 22.7 and Iowa Code chapter 550. Independent test authority reports shall be available to the secretary of state, deputy secretary of state, director of elections, members of the board of examiners, and any other person designated by the secretary of state to have a bona fide need to review the report. No other person shall have access to the reports, and no copies shall be made. All independent test authority reports shall be marked "CONFIDENTIAL" and shall also be accompanied by a list of those persons who are authorized to examine the report. The reports shall be kept in a locked cabinet.

**22.5(4)** Copies of the reports of any test authority who has examined the equipment in conjunction with certification requirements of other states.

**22.5(5)** Reports of the certifying authorities of any other states that have examined the equipment, whether or not the equipment was approved for use.

**22.5(6)** Brochures, photographs and advertising material used to encourage sales of the equipment.

**22.5(7)** Manuals for the use and maintenance of any components of the equipment that are not manufactured by the vendor.

**22.5(8)** Descriptions of the equipment including the methods used to comply with the requirements of 2007 Iowa Acts, Senate File 369, section 7, if the equipment to be examined is a voting machine, or Iowa Code section 52.26 if it is an optical scan voting system. This description shall include an acknowledgment of the following requirements:

*a.* On or after July 1, 2007, a county whose voting system primarily utilizes voting machines, as defined in Iowa Code section 52.1 as amended by 2007 Iowa Acts, Senate File 369, section 5, shall, when seeking to replace the voting system, replace the voting system with an optical scan voting system only. A county shall meet the requirements of the federal Help America Vote Act relating to disabled voters through the use of electronic ballot marking devices that are compatible with an optical scan voting system.

*b.* On or after July 1, 2007, a county that utilizes a voting machine, as defined in Iowa Code section 52.1 as amended by 2007 Iowa Acts, Senate File 369, section 5, and an optical scan voting system concurrently at the same precinct shall, when seeking to replace the voting machine, replace the voting machine with an electronic ballot marking device that is compatible with an optical scan voting system in order to ensure that each precinct in the county shall have at least one electronic ballot marking device.

**22.5(9)** Reserved.

**22.5(10)** The form prescribed by the state commissioner of elections to request examination and testing of voting systems.

**721—22.6(52) Review of application by examiners.** Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the equipment. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

**721—22.7(52) Consultant.** If the examiners determine that a consultant is necessary to determine whether a system meets the requirements of Iowa law, they shall notify the vendor of the decision. The vendor may suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

A consultant shall be employed if no other state has certified the equipment for use. The examiners may require a consultant if the equipment has been modified following certification by other states, or if the examiners believe it to be necessary.

If a test authority has been determined to be necessary by the examiners and a suitable consultant cannot be agreed upon by the examiners and the vendor, the equipment shall not be approved for use.

**721—22.8(52) Contact other users.** The examiners shall contact a representative sample of the users of the equipment to determine the nature of the experience of other users.

**721—22.9(52) Testing the equipment.** The vendor shall provide to the examiners one, or more, if deemed necessary by the examiners, production models of the equipment submitted for certification. The equipment shall be prepared by the examiners with the aid of the vendor to be tested at two sample elections: a sample partisan primary election, and a sample general election.

**22.9(1)** Test county for absentee voting. Voting equipment which is designed to be used for tabulation of absentee ballots shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. congressional district, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

**22.9(2)** Test county for absentee systems. Voting equipment which is designed to be used for tabulation of absentee ballots only shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

**22.9(3)** Test precinct for precinct count systems. The test precinct shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

**22.9(4)** All requirements for preparation and printing of test ballots shall be met in the preparation of ballots for the test elections including, but not limited to, rotation of candidates' names and the provision of space for write-in votes.

**22.9(5)** Test ballots provided by vendor. The vendor shall provide the ballots to be used in the testing of the equipment. A total of at least 2000 ballots shall be printed for each of the two test elections. One thousand ballots for each test election shall be marked and manually tabulated by the vendor to use as a test of the ability to tabulate results accurately. The balance of the ballots shall be delivered to the examiners before the date set for the examination. The examiners shall mark and manually tabulate an additional set of at least 300 test ballots.

**721—22.10(52) Test primary election for three political parties.**

**22.10(1)** *Closed primary election.* Voters may only cast votes for the candidates of one of the parties.

**22.10(2)** *Offices.* The following offices shall each have two candidates for each party. Candidate names shall be rotated as required by Iowa Code section 43.28.

- a. U.S. Senator
- b. U.S. Representative
- c. Governor
- d. Secretary of State
- e. Auditor of State
- f. Treasurer of State
- g. Secretary of Agriculture
- h. Attorney General
- i. State Senator
- j. State Representative
- k. County Supervisor (vote for no more than three of six candidates)
- l. County Treasurer
- m. County Recorder
- n. County Attorney
- o. and p. Rescinded IAB 8/1/07, effective 7/13/07.

**22.10(3)** *Write-in votes.* Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office.

**721—22.11(52) Test general election.** The ballots for the test general election shall include the following:

**22.11(1) Offices.** In the test general election all of the above offices shall be included with the addition of candidates for lieutenant governor to be voted for jointly with each candidate for governor. Each political party and nonparty political organization shall have one candidate for each office that appeared on the primary ballot, except county supervisor, which shall have three candidates for each party and nonparty political organization. Names of candidates for county supervisor shall be rotated as required by Iowa Code section 49.31, subsection 2.

The following nonpartisan offices shall also be included on the ballot with the heading “Nominated by Petition”:

- a. Township Trustee
- b. Township Clerk
- c. County Public Hospital Trustee
- d. Soil and Water Conservation District Commissioners
- e. Agricultural Extension Council

**22.11(2) Judicial ballot.** Portions of the judicial ballot may be printed separately if necessary.

- a. Supreme Court (five justices)
- b. Appeals (four judges)
- c. District Court (six judges)
- d. District Associate Judges (three judges)

**22.11(3) Public measures.**

- a. Constitutional Amendments (two)
- b. Local public measures (three)

**22.11(4) Straight party voting for three political parties and five nonparty political organizations.**

**22.11(5) Write-in votes.** Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office. This does not include judges standing for retention.

**721—22.12(52) Report of findings.** The examiners shall complete a report showing their findings. The report shall include a checklist containing all statutory requirements for voting systems and shall indicate whether each requirement applies to the voting system being examined and whether the voting system is compliant or not compliant. The checklist must indicate that all applicable items are compliant with statutory requirements in order for the examiners to find that the voting system may be approved for use.

**22.12(1) Approval permits use.** If the report states that the voting system has been approved for use, the voting system may be adopted for use at elections.

**22.12(2) Report filed with the secretary of state.** The report shall be filed with the secretary of state. The secretary of state shall retain the vendor’s application and other documents submitted pertaining to the certification as long as the voting system remains certified.

**721—22.13(52) Notification.** The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

**721—22.14(52) Denial of certification.** If the examiners find that the equipment does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the equipment. The report of the board shall specify the reasons for the denial, as well as all areas in which the equipment complied with the requirements of the law. Certification may be denied for any of the following reasons:

**22.14(1)** The absence of any feature required by Iowa Code section 52.5 or 52.7 for voting machines, or section 52.26 for electronic voting systems.

**22.14(2)** Failure to pay the examiners' fees and expenses, or the fees of any consultant mutually agreed upon by the examiners and the vendor.

**22.14(3)** Failure to provide the examiners with a complete application as required by rule 22.5(52).

**22.14(4)** Failure of the equipment to produce accurate results in one or both of the test elections. The test groups of ballots shall be tabulated manually to determine the expected outcome of each test election. If the equipment fails to reproduce exactly the results of the manual tabulation, the system shall not be approved for use, unless it can be demonstrated that the manual tabulation was in error and the machine tabulation was accurate.

**721—22.15(52) Application for reconsideration.** Following denial of certification a vendor may make the necessary modifications to the system and apply for reconsideration. Aspects of the equipment which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the equipment to comply in other areas. If certification was denied for the reasons cited in 22.14(1) or 22.14(4), both test elections must be completed satisfactorily, or approval shall not be granted.

**721—22.16(52) Appeal.** If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

**721—22.17(52) Reexamination following changes in equipment.** The vendor shall notify the examiners of any changes in the equipment including changes in tabulation software, firmware, and hardware. The vendor shall provide to the examiners the following information when requesting recertification:

**22.17(1)** Description of the changes made.

**22.17(2)** Reports of test results conducted for other states following the modifications to the equipment.

**22.17(3)** Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

**22.17(4)** A new request for examination and test as required by subrule 22.5(10).

**721—22.18(52) Rescinding certification.**

**22.18(1) *Grounds for rescinding certification.*** Certification may be rescinded if it is found that:

*a.* The equipment does not produce accurate results and reports as required for an election.

*b.* Material changes have been made in the equipment that do not comply with requirements for certification.

*c.* Equipment which has been certified for use has not been adopted by any county in Iowa, or is no longer used by any county in Iowa, and is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting equipment without a complaint or contested case proceedings.

*d.* Equipment that has been certified for use no longer complies with the requirements of Iowa law.

*e.* Any other grounds that may materially affect delivery or performance of the equipment.

**22.18(2) Procedure for rescinding certification.** Complaints regarding voting equipment certified for use in Iowa shall be filed with the secretary of state. The examiners shall review all complaints and may initiate a contested case to rescind certification on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding certification shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

**22.18(3) Suspension of certification.** If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting equipment can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the equipment, the suspension may be limited to the deficient models. While certification is suspended, the equipment may not be used for any election.

After the required modifications have been made the vendor may apply for reexamination of the equipment following the procedure described in rule 22.17(52).

**22.18(4) Further use prohibited.** If certification of voting equipment is rescinded without qualification, no further use shall be permitted by any county.

These rules are intended to implement Iowa Code sections 17A.12, 21.4, 21.5, 52.4, 52.5, 52.6, 52.7, 52.26, and 70A.9.

**721—22.19(52) Examination of voting booths—application.** Any vendor who wishes to apply for approval of a voting booth for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

**22.19(1)** History of the voting booth to be examined. This history shall include a complete description of the voting booth to be examined, descriptions of any previous models of the voting booth, the date the voting booth to be examined went into production, and a list of jurisdictions which have used the voting booth.

**22.19(2)** Copies of all manuals developed for use with the voting booth including, but not limited to, technical manuals for repair and maintenance of the voting booth, assembly manuals for election officials, and any other written documents prepared by the vendor that describe the operation, use and maintenance of the voting booth.

**22.19(3)** Copies of the reports of any test authority who has examined the voting booth in conjunction with certification requirements of other states.

**22.19(4)** Reports of the certifying authorities of any other states who have examined the voting booth, whether or not the voting booth was approved for use.

**22.19(5)** Brochures, photographs and advertising material used to encourage sales of the voting booth.

**22.19(6)** Manuals for the use and maintenance of any components of the voting booth that are not manufactured by the vendor.

**22.19(7)** A list of jurisdictions using the booth.

**22.19(8)** Request for examination. The following form shall be filed with the materials required above:



STATE OF IOWA  
REQUEST FOR EXAMINATION OF VOTING BOOTH  
BY THE BOARD OF EXAMINERS FOR VOTING MACHINES  
AND ELECTRONIC VOTING SYSTEMS

Name of model(s) to be examined: \_\_\_\_\_  
Vendor or Commissioner: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Person to contact: \_\_\_\_\_

I request that the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems examine the voting booth(s) described above and in the attached documents for the purpose of determining whether this voting booth will be approved for use in the State of Iowa. If required to do so, I will pay the costs of this examination, including the examiners' fees and expenses. I understand that the examiners' fee of one hundred fifty dollars (\$150) each is to be paid before the examination begins. If more than one vendor presents booths to be examined, I understand that the examiners' fees will be divided equally among the vendors. (Fees shall be waived for examination of voting booths for county commissioners.)

I understand that a production model of the voting booth submitted for certification shall be made available to the examiners.

I agree to submit subsequent models of this voting booth for further examination if any changes are made following its approval for use. I understand that certification will be denied or rescinded if the examiners determine that this voting booth does not meet the requirements of the Code of Iowa and Iowa Administrative Code.

I understand that voting booths that have not been approved by the examiners cannot be used at any election in the State of Iowa.

Signed: \_\_\_\_\_  
Title: \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on \_\_\_\_\_ (date)  
by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC (or title of other officer  
authorized to perform notarial acts)

**721—22.20(52) Review of application by examiners.** Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the voting booth. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

**721—22.21(52) Contact other users.** The examiners shall contact a representative sample of the users of the voting booth to determine the nature of the experience of other users.

**721—22.22(52) Criteria for approval.** Voting booths must meet the following criteria:

1. Voting booths must provide for voting in secrecy.
2. Voting booths must be sturdy.

3. Voting booths must have a light, or be adaptable to having lighting attached if needed.
4. Handicapped accessible booths must accommodate voters seated either in wheelchairs or in chairs provided at the precinct.

**721—22.23(52) Report.** The examiners shall prepare a report clearly stating whether the voting booth has been approved or denied approval for use in Iowa.

**22.23(1) Approval permits use.** If the report states that the voting booth has been approved for use, it may be adopted for use at elections.

**22.23(2) Copy filed with the secretary of state.** A copy of the report shall be filed with the secretary of state. A copy of the application of the vendor and all other documents submitted by the vendor shall be filed with the report and retained by the secretary of state.

**721—22.24(52) Notification.** The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

**721—22.25(52) Denial of certification.** If the examiners find that the voting booth does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the voting booth. The report of the board shall specify the reasons for the denial, as well as all areas in which the voting booth complied with the requirements of the law. Certification may be denied for any of the following reasons:

**22.25(1)** Failure to meet criteria established by rule 22.22(52).

**22.25(2)** Failure to pay the examiners' fees and expenses, if required.

**22.25(3)** Failure to provide the examiners with a sufficient application as required by rule 22.19(52).

**721—22.26(52) Application for reconsideration.** Following denial of certification a vendor may make the necessary modifications to the voting booth and apply for reconsideration. Aspects of the voting booth which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the voting booth to comply in other areas.

**721—22.27(52) Appeal.** If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

**721—22.28(52) Reexamination following changes in voting booth.** The vendor shall notify the examiners of any changes in the voting booth and shall provide to the examiners the following information when requesting recertification:

**22.28(1)** Description of the changes made.

**22.28(2)** Reports of test results conducted for other states following the modifications to the voting booth.

**22.28(3)** Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

**22.28(4)** A new request for examination as required by subrule 22.19(8).

**721—22.29(52) Rescinding certification.**

**22.29(1) *Grounds for rescinding certification.*** Certification may be rescinded if it is found that:

- a. The voting booth does not meet the criteria for approval established in rule 22.22(52).
- b. Material changes have been made in the voting booth that do not comply with criteria for approval.
- c. A voting booth which has been certified for use has not been purchased by any county in Iowa, or is no longer used by any county in Iowa, is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting booths without a complaint or contested case proceedings.

**22.29(2) *Procedure for rescinding certification.*** Complaints regarding voting booths certified for use in Iowa should be filed with the examiners. The examiners shall review all complaints and may initiate a contested case to rescind approval on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding approval shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

**22.29(3) *Suspension of certification.*** If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting booth can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the voting booth, the suspension may be limited to the deficient models. While certification is suspended, the voting booth may not be used for any election.

After the required modifications have been made, the vendor may apply for reexamination of the voting booth following the procedure described in rule 22.28(52).

**22.29(4) *Further use prohibited.*** If certification of voting booth is rescinded without qualification, no further use shall be permitted by any county.

Rules 22.19(52) to 22.29(52) are intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

**721—22.30(50,52) Electronic transmission of election results.**

**22.30(1) *Certification of equipment.*** On or after December 17, 2003, new components for transmission of election results by any electronic means may be used in elections in Iowa only if the components are approved by the board of examiners for use with a certified voting system. Existing systems containing electronic transmission components in use before December 17, 2003, may continue to be used until January 1, 2006, when the Help America Vote Act voting system requirements become effective.

The examiners shall review the qualification test report submitted with the application for examination and testing of the voting system. If the test report for the voting system under examination shows that the electronic transmission components have met the voting system standards and the examiners concur, the electronic transmission components may be used in conjunction with the voting system. If the qualification test report or the examiners conclude that the electronic transmission components do not meet the voting system standards, or if this feature is not mentioned in the report, purchasers of the voting system may not transmit election results electronically.

**22.30(2) *Procedures on election day.*** The election results may be transmitted electronically from voting equipment to the county commissioner of elections' office only after the precinct election officials have produced a written report of the election results as required by Iowa Code section 50.11. All election officials of the precinct shall sign the printed report of the election results. The signed copy shall be the official tabulation from that precinct.

**22.30(3) *Procedures after election day.*** Before the canvass by the board of supervisors, the county commissioner of elections shall compare the signed, printed report from each precinct with the results transmitted electronically from the precinct on election night. The commissioner shall report any discrepancies between the two sets of election results to the board of supervisors. The signed, printed results produced pursuant to Iowa Code section 50.11 shall be considered the correct results.

This rule is intended to implement Iowa Code sections 50.11 and 52.41.

**721—22.31(52) Acceptance testing.** When the commissioner receives voting equipment from a vendor, the commissioner shall carefully examine and test the equipment to:

**22.31(1)** Verify that the system delivered is certified for use in Iowa. The commissioner shall compare the voting system version numbers with the list of certified voting equipment provided by the state commissioner;

**22.31(2)** Verify that everything in the contract has been delivered by:

- a. Comparing a copy of the purchase contract with the items received;
- b. Making certain that all components, such as power cords, casters, and keys, are included;
- c. Reviewing instruction and maintenance manuals to be sure that the correct version of each manual was provided; and

**22.31(3)** Verify that everything delivered actually works. The commissioner shall run a simulated election to confirm that each part of the system and the system as a whole function properly.

**721—22.32(52) Paper record requirement—reimbursement process.** Counties currently using voting machines that do not produce an external paper record for review by the voter are required to make this feature available for all elections held on or after November 4, 2008. Funds are available to reimburse counties for the cost of compliance with this new requirement. The secretary of state will reimburse the counties by using the following procedures:

**22.32(1) Eligibility requirements.**

a. Counties that own direct recording electronic voting machines as of May 29, 2007, that do not provide a paper record for voter review are eligible for funding under this rule.

b. Counties that do not own any equipment as of May 29, 2007, are eligible for funding under this rule and are required to purchase ballot-marking devices to comply with 2007 Iowa Acts, Senate File 369.

c. Counties must file a declaration of intention with the secretary of state by June 15, 2007, as described in subrule 22.32(2), to be eligible for funding under this rule.

d. Counties that own a voting system as of May 29, 2007, that uses either a ballot-marking device or a paper record device are not eligible for funding under this rule.

**22.32(2) Declaration of intention.** On or before June 15, 2007, the county board of supervisors of each county shall submit to the office of secretary of state a resolution adopted by the board declaring the method by which the county intends to comply with Iowa Code section 52.7, subsection 1, paragraph “l,” as amended by 2007 Iowa Acts, Senate File 369. For counties eligible for reimbursement, the following options are available:

1. Option A. A county that uses only direct recording electronic (DRE) voting machines may add paper record printer attachments that are compatible with the county’s current DRE voting machines. Full reimbursement funds are available from the state for this option.

2. Option B. A county that uses only direct recording electronic (DRE) voting machines may acquire an optical scan voting system with ballot-marking devices for accessibility. Only partial reimbursement funds for ballot-marking devices are available from the state for this option.

3. Option C. A county whose primary voting system is an optical scan system with direct recording electronic (DRE) voting machines for accessibility may add paper record printer attachments that are compatible with the county’s current DRE voting machines. Full reimbursement funds are available from the state for this option.

4. Option D. A county whose primary voting system is an optical scan system with direct recording electronic (DRE) voting machines for accessibility may acquire ballot-marking devices to replace the DREs. Only partial reimbursement funds are available from the state for this option.

**22.32(3) Initial reimbursement amount.** After June 15, 2007, the secretary of state shall determine the initial reimbursement amount for each county based upon the following considerations:

- a. The number of noncompliant DREs owned by the county on May 29, 2007.

b. The actual cost of purchasing one paper record device for each DRE owned by the county on May 29, 2007.

c. For counties that do not own equipment as of May 29, 2007, the number of precincts in the county.

**22.32(4) Conditions for reimbursement.**

a. The secretary of state shall not provide reimbursement funds to any county that fails to file the required declaration by June 15, 2007, or, if applicable, an amended declaration by December 1, 2007.

b. After the declaration is filed, the board of supervisors of a county may amend the board's declaration only under the following circumstances:

(1) The specific device selected in the declaration of intention is not certified with the county's primary voting system for use in Iowa by December 1, 2007.

(2) The specific device selected in the declaration of intention is not available for purchase by December 1, 2007.

(3) A new product meeting the requirements of Iowa law is certified and is available.

**22.32(5) Application for reimbursement.** After the county has paid for the necessary equipment, the board of supervisors may apply for reimbursement. Each application shall include all of the following documents:

a. A receipt from the vendor from whom the equipment was purchased showing the purchase price, a description of each item purchased, and the date upon which the vendor received payment from the county.

b. Documentation of any moneys received by the county or deducted from the purchase price for a trade-in on equipment replaced as part of the transaction required to comply with Iowa Code section 52.7, subsection 1, paragraph "l," as amended by 2007 Iowa Acts, Senate File 369.

**22.32(6) Initial reimbursement payments.** Upon receipt of the application for reimbursement required in subrule 22.32(5), the secretary of state shall reimburse the county the actual cost or the amount determined in the initial reimbursement established by the formula in subrule 22.32(3), whichever is less.

a. If the county selected either Option A or Option C, no further reimbursement will be made.

b. If the county selected either Option B or Option D, additional funds may be available based upon calculations after initial reimbursement payments have been calculated.

**22.32(7) Reimbursement for purchase of ballot-marking devices.**

a. *Definitions.*

(1) "*Cost to county*" means the total cost of the electronic ballot-marking devices after subtracting the amount of any trade-in allowance from the vendor.

(2) "*Amount of remaining funds*" means the result determined by subtracting the amount of the initial reimbursement payments made under subrule 22.32(6) from \$2 million (the amount appropriated for this program).

b. *Final reimbursement amount.* The final reimbursement amount shall be determined by dividing the number of precincts in all counties choosing Option B and Option D into the amount of remaining funds.

c. *Adjustment.* If the cost to any county is less than the final reimbursement amount based on the calculations in paragraph "b," the county shall receive only the amount of the actual cost to the county. The additional funds will be reallocated to the other counties choosing Option B or Option D.

**22.32(8) Report to the joint appropriations subcommittee.** On or before December 31, 2007, the secretary of state shall submit a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation regarding the expenditures of the moneys appropriated in 2007 Iowa Acts, House File 911, section 1, subsection 13. The report shall also include recommendations, if necessary, to the general assembly for enacting waiver provisions for counties unable to comply with the requirements of Iowa Code section 52.7, subsection 1, paragraph "l."

**22.32(9) Federal funding.** If any federal funding is received by the secretary of state for the same or similar purposes as the state appropriation in 2007 Iowa Acts, House File 911, section 1, subsection 13, paragraph “a,” an amount of this state appropriation equal to the federal funding received, but not more than \$2 million, shall revert to the rebuild Iowa infrastructure fund at the end of the state fiscal year in which the federal funding is received.

**22.32(10) Minimum payment.** Each eligible county will be entitled to receive at least the amount necessary to add the paper record device to all DREs owned by the county, or, in the case of counties that do not own equipment, the amount necessary to add one paper record device in each precinct within the county.

This rule is intended to implement 2007 Iowa Acts, House File 911, section 1, subsection 13.

**721—22.33 to 22.38** Reserved.

**721—22.39(52) Public testing for direct recording electronic voting machines.** Before each election in which direct recording electronic (DRE) voting machines are used, the commissioner shall conduct public testing.

**22.39(1) Automatic testing.** Some vendors provide an automatically generated test program for DRE voting machines. Although these tests provide the user with information about the internal integrity of the machine, the automatic test is not an adequate test; it does not include testing to show that the programming for the current election is correctly done; and it does not test the voter-operated functions of the machine.

**22.39(2) Testing personnel.** DRE voting machine testing shall be conducted by authorized employees of the commissioner, who may work in two-person teams. The process and results of the test shall be carefully documented and shall be available for inspection.

**22.39(3) Test process.** Each two-person team shall follow a written plan, with one person operating the DRE voting machine and another person observing and verifying that the correct actions were taken. The tests shall be conducted as follows for each machine:

*a. Automated test.* Run the automated test on each machine and record the results.

*b. Visual test.* Verify that the correct visual ballot (and audio ballot, if any) is installed for each machine to be used in the election.

*c. Testing in election mode.* If the voting system provides for both a test mode and an election mode, the following portions of the public test shall be conducted with the DRE voting machine in election mode.

(1) Before beginning the test, print a zero totals report.

(2) Touch test. As each visual ballot (and audio ballot, if any) is reviewed, select and then deselect each candidate to verify that the candidate can be selected as a choice.

(3) Accuracy test. Use each voting method (visual, audio, etc.) available to conduct the accuracy test. Prepare a written test plan to guide the entry of votes into the machine. This test shall be conducted as follows:

1. Record votes for each candidate for an office, including offices to which more than one person will be elected, with each candidate receiving a different number of votes. For example, the first candidate may receive one vote; the second candidate may receive two votes; the third candidate may receive three votes; and so on.

2. For offices to which more than one candidate will be elected, test each combination of candidates in addition to the test in numbered paragraph “1,” above.

3. For each public measure and judge on the ballot, the “YES” position shall receive one vote and the “NO” position shall receive two votes, or vice versa.