

**PROPOSED REGULATION OF THE
SECRETARY OF STATE**

LCB FILE NO. R109-211

**The following document is the initial draft regulation proposed
by the agency submitted on 11/23/2021**

PROPOSED REGULATIONS OF THE SECRETARY OF STATE

ELECTIONS DIVISION

LCB File No.

Section 1. Chapter 293 of NAC is hereby amended by amending the provisions set forth in Sections 2, inclusive of this regulation.

Sec. 2. NAC 293.255 is hereby amended to read as follows:

NAC 293.255 Postelection certification audits of VVPATs. (NRS 293.124, 293.247)

1. After each election, a county clerk shall conduct a postelection certification audit of VVPATs randomly selected pursuant to subsection 3 or 4, as applicable, to ensure that the paper record produced by a VVPAT accurately records all votes cast by voters on a mechanical recording device.
2. A county clerk must conduct a postelection certification audit of a VVPAT by comparing each vote cast for each candidate and on each measure which was electronically recorded on the mechanical recording device to each vote cast for each candidate and on each measure which was recorded on the attached VVPAT. Such comparison may be conducted manually or by a mechanical device determined by the Secretary of State to be capable of accurately reading the votes cast and printed and otherwise qualified for use in the State pursuant to applicable state and federal law.
3. The county clerk of a county whose population is 100,000 or more must randomly select a number of mechanical recording devices equal to 2 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than 20 mechanical recording devices, whichever is greater, for the postelection certification audit.

4. The county clerk of a county whose population is less than 100,000 must randomly select a number of mechanical recording devices equal to 3 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than four mechanical recording devices, whichever is greater, for the postelection certification audit.

5. If a discrepancy of more than 3 votes is discovered, the county clerk must immediately notify the Secretary of State and investigate to determine the reason for the discrepancy. Once the reason for the discrepancy has been identified, and no later than 5 business days after the initial discovery, the reason for the discrepancy must be reported in writing to the Secretary of State. If the discrepancy cannot be resolved, the county clerk must expand the random sample to an additional 2 percent or 20 mechanical recording devices for a county whose population is 100,000 or more or to an additional 3 percent or four mechanical recording devices for a county whose population is less than 100,000.

~~6.5~~ 6. The county clerk shall transmit the results of the audit to the Secretary of State within 7 working days after the date of the election.

6. Any member of the public who observes the postelection certification audit shall not interfere with the conduct of the audit.