

To: State Elections Board
From: Paul Malischke
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Wisconsin needs minimum standards for pre-election and pre-recount testing of voting machines. Please promulgate rules for these tests.

These tests are the only way we have to verify that the equipment has been programmed correctly for a specific election. Other verification methods are currently not being used in Wisconsin. Recounts are done by machine according to current law, except in the rare case where a court order is issued, but this barrier is high. We have audits only once every two years, and this audit is designed to report results after certification. This makes the pre-election and pre-recount test very important. They are both already required by statutes 5.84 (1) and 5.90

The tests that I have witnessed raise alarms. In a referendum, the clerk used a test deck with two "yes" votes and two "no" votes. The test results came out 2-2, and the clerk felt this was adequate. But to my skeptical eye, every vote could have been read completely flip-flipped, and the results would still have been 2-2.

Another technique that I have witnessed is using the test mode built-in to the equipment. The recent California report stated that the test mode could be different than the election mode.

In Wisconsin, we have had two known problems with programming the voting machines: Milwaukee in September 2006, and Medford in November 2004. The problem in Medford was not discovered until four months after the election. Proper pre-election testing would have caught these problems.

When promulgating this rule, staff must consider all pertinent procedures including but not limited to

- Composition of the test deck
- Inspection of the machine-generated voter-verifiable record
- Inspection of the tally of total voters, particularly for machines that will be used for more than one ward
- Whether the voting machine must be in "election mode" versus "test mode",
- Whether the memory card and voting machine must be tested and then sealed as a matched pair
- Records to be kept

The rule would allow clerks freedom to determine test procedures for their preliminary testing before the public test.