

Kayatta, Taylor

From: Pamela Smith <pam@verifiedvoting.org>
Sent: Monday, August 16, 2021 8:16 AM
To: Kayatta, Taylor
Cc: Mark Lindeman; Bathla, Rajbir; Anderson, Robbie
Subject: Re: Comments on Proposed Modifications to RLA Regulations - Final

Dear Taylor,

Thanks again for this opportunity to look over the revision and offer any last thoughts before the final comment period. We did have a few thoughts (below) which we hope will be helpful. Please let me know if you would like any clarification on any point.

All the best,
Pam
Pamela Smith, Senior Advisor
Verified Voting
760-613-0172

cc: Mark Lindeman, Acting Co-Director, Verified Voting

Comments - Verified Voting

20111. Definitions.

We suggest **striking** the phrase "*nor to how the voting system tabulated those ballots.*" in section (e) and similar language in (j) (5). This phrase implies the machine tabulation isn't factored into the audit at all, which is not correct.

For clarity, the phrase "*and voter verified paper audit trail*" can also be removed from this section since VVPATs are already explicitly included in the definition of ballot.

(j)(4) refers to "*batch-level tabulations,*" but that hasn't been defined. We suggest replacing with "the vote subtotals or cast vote records exported in step 2." Similarly, (j)(5) refers to "*the remaining batches,*" intending to reference (2), but it could be read as meaning all batches that weren't hand-counted in step 4, so we suggested changing to "the remaining groups from step 2."

20121. Audit Procedures for Single-Phase Audit.

The steps outlined in section the *definitions* for hybrid audits mention exporting comparison data for hybrid audits, but the steps in the following sections need to also include uploading that data.

20121(a) add (5): "(5) For hybrid audits, all vote subtotals or cast vote records that were exported pursuant to 20111(j)(2)."

20122. Audit Procedures for Two-Phase Audit.

This section reflects most of the clarifications we requested for two-phase audit, and most importantly, reinstates the generation of a second seed when the second phase of the audit is needed.

20122(b) **insert** a new (5), with the same wording as above: "(5) For hybrid audits, all vote subtotals or cast vote records that were exported pursuant to 20111(j)(2)." (the current (5) becomes (6)).

20122(e)-(i)

There is still some clarification needed on the **order** of the steps; the determination of whether the audit must proceed to a second phase should be completed before step (f). We suggest **moving** the phrase

"The RLA software tool will identify whether the audit can stop or whether further auditing is required to meet the risk limit. If further auditing is required,"

out of step (i) and placing this language in step (e)

"After the first phase is completed, the RLA software tool will identify whether the audit can stop or whether further auditing in a second phase is required to meet the risk limit. "

In 20122(f), **edit** (3), replacing the current struck-through language with "or a hybrid audit in which cast vote records were exported".

Delete 20122(f)(4), because the second phase of a 2-phase audit as defined will not include a batch comparison audit in the second phase.

20124. Public Observation and Verification of Audit.

The public observation language under 20124(a)(3)(B) should require all the same artifacts described in the updated 20121(a)(5), so this section should also include the addition of the language suggested for 20121(a)(5).

On Tue, Aug 10, 2021 at 5:53 PM Kayatta, Taylor <TKayatta@sos.ca.gov> wrote:

Pamela and Mark,

Thank you for your comments.

Attached is a revised draft of the proposed bill text. This document shows all changes to the most recently noticed version of these regulations as well as unmodified sections of the permanent regulations that are not proposed for modification. This document, read together, represents the entire RLA regulation chapter that is proposed to go into effect once this regulatory action is complete.

This version of the text addresses your comments as well as comments my office received from others.

I wanted to give you a chance to review the proposed text before sending it out for formal public notice. We did not necessarily make all of the changes you suggested, but we want to make sure that the changes we did make in response to your comments are consistent with your comments. Please review this document for any final changes and send me any final thoughts before 9am on Monday, August 16th. Note that any comments you provide now will not be part of the formal rulemaking record, so if you would like to submit formal comments you should wait for the 15 day notice period to start.



Taylor William Kayatta

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Political Reform Division

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From: Pamela Smith <pam@verifiedvoting.org>
Sent: Thursday, August 5, 2021 2:57 PM
To: Kayatta, Taylor <TKayatta@sos.ca.gov>
Cc: Mark Lindeman <mark@verifiedvoting.org>; Pamela Smith <pam@verifiedvoting.org>
Subject: Comments on Proposed Modifications to RLA Regulations - Final

Dear Taylor,

Please find attached Verified Voting's comments on the proposed modifications to the Risk Limiting Audit regulations. Many thanks for the opportunity to comment and we look forward to next steps. Please do not hesitate to contact me if you have any questions about the attached PDF file.

All the best,

Pam

Pamela Smith, Senior Advisor

Verified Voting

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cc: Mark Lindeman, Acting Co-Director, Verified Voting