

Why did AZ Secretary of State Fontes remove 10 pages from his Elections Procedures Manual that were in the 2019 and 2021 versions?

The U.S. Constitutional principle is **Article 1, Section 2** (the Supreme law of the Land, Article 6)

...the House of Representatives as a bicameral body **elected** every two years by the **people of the states**...

The 2019 EPM included 10 pages that made ARS 16-442 B MUCH MORE SUBSTANTIAL, ELEVATING AZ TO "TIER 4" dependence on the EAC (Federal Elections Commission) and their regs. That makes Crosby even more golden, that I didn't certify in 2022. ***The 2019 EPM was still in effect.***

Arizona Revised Statutes 16-452. Rules; instructions and procedures manual; approval of manual; field check and review of systems; violation; classification

- A. After consultation with **each county board of supervisors** or other officer in charge of elections, the secretary of state shall prescribe rules to achieve and maintain the maximum degree of correctness...

It appears Secretary Fontes did not consult Cochise County.

ARS 16-442. Committee approval; adoption of vote tabulating equipment; experimental use; emergency

- B. Machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the help America vote act of 2002 and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the help America vote act of 2002.

Adding the EAC-certification step (and the detailed state application/review process) makes the overall state certification pathway stricter than the floor set by § 16-442(B). It does not prohibit anything the statute permits, nor does it authorize anything the statute forbids. A system that satisfies the EPM's requirements will necessarily satisfy § 16-442(B). The two can be read together without contradiction.

Arizona courts have previously held that EPM rules lacking statutory grounding do not carry the force of law. But "goes beyond" is not the same as "conflicts with." In short: the

2019 EPM procedures are compatible with, and more demanding than, § 16-442(B). They do not create a conflict.

Pg 76 ARIZONA SECRETARY OF STATE 2019 ELECTIONS PROCEDURES MANUAL

CHAPTER 4: VOTING EQUIPMENT VOTING EQUIPMENT CERTIFICATION All components of a voting system must be properly certified prior to use in any election for a federal, state, or county office. A.R.S. § 16-442(B). In addition, a city, town, or agricultural improvement district may adopt for use in its elections any electronic voting system or vote tabulating device approved by the Secretary of State, and thereupon, the voting system or device may be used at any or all elections for voting, recording, and counting votes cast in an election. A.R.S. § 16-442(E). A voting system is defined as the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation....

1. A Voting System Test Laboratory (VSTL) accredited in accordance with the Help America Vote Act; 2. The federal Election Assistance Commission (EAC);

Pg 77 3. VSTL Test Report; and 4. EAC Certificate of Conformance, including EAC Certification Number and Scope of Certification.

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2. Confirm VSTL approval and EAC certification;

Pg 79 Legal Standards for Certification A voting system must comply with all federal and state laws, including the following: 1. The voting system must be tested and certified under federal law: a. The voting system must be reviewed and/or tested by an accredited VSTL; b. The voting system must be certified by the EAC; and c. The voting system must otherwise comply with the then-applicable federal Voluntary Voting System Guidelines (VVSG) in effect;

h. The voting system must contain security features that prevent unauthorized access or hacking;

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5. The voting system may not be subject to a recent decertification proceeding or otherwise have been utilized in violation of federal or state law;

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6. Demonstrating the voting system's ability to function in compliance with applicable state and federal law.