

## California Secretary of State

### INITIAL STATEMENT OF REASONS

Hearing Date: No hearing date is scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact person listed no later than 15 days prior to the close of the written comment period.

Written Public Comment Period: September 15 through November 1, 2017

Subject Matter of Proposed Regulations: Ballot Printing Regulations.

Section(s) Affected: Section 20200 through 20280 of Title 2, Division 7, Chapter 4 of the California Code of Regulations.

Specific Purpose of each adoption, amendment, or repeal:

The proposed regulations and amendments to existing regulations were drafted for purposes of certifying ballot on demand systems pursuant to California Elections Code section 13004.5(d). These changes amend definitions, and add updates to conform to requirements for ballot on demand systems, and ballot on demand users pursuant to section 303.4, as well as commercial printing pursuant to section 13004. These changes also clean up outdated requirements that are no longer relevant to ballot printing.

A. Problem Being Addressed

The purpose of revising the Ballot Printing regulations is as follows:

1. To create regulations for purposes of certifying ballot on demand systems pursuant to California Elections Code section 13004.5(d).
2. To create and clarify regulations for ballot on demand systems and ballot on demand users pursuant to California Elections Code section 303.4.
3. To create and clarify regulations in printing processes for commercial printers, pursuant to California Elections Code section 13004.
4. Remove requirements that are no longer relevant to ballot printing.

B. Anticipated Benefits from the Proposed Regulatory Action

The proposed changes provide ballot printers, as well as ballot on demand systems standards to which they can be tested against in order to obtain

certification. In addition, pursuant to section 13004.5(d) of California Elections Code, they provide clear regulations that reflect requirements of sections 303.4 and 13004.5. The updated regulations provide flexibility for county users to implement ballot on demand systems as they were intended to be used. Accordingly, there are no direct benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

### Factual Basis/Rationale

The proposed regulations and amendments to existing regulations were drafted for purposes of certifying ballot on demand systems pursuant to California Elections Code section 13004.5(d). These sections relate to commercial ballot printers, ballot cards, ballot on demand users, and ballot on demand systems.

The regulation and certification of ballot on demand systems, and ballot on demand users will provide the flexibility counties need in order to provide these options for their voters. The additions and amendments contained in this proposal will satisfy requirements for commercial printing, as well as ballot on demand systems, and ballot on demand users.

**Section 20200** – The term “ballot card manufacturers and ballot card finishers” were combined to more generically be “ballot printers” to reflect the current printing technologies in use because ballot printers no longer typically manufacture and finish, but rather are printing the ballots in one process. Language was added to indicate these amended regulations also incorporate requirements for the new ballot on demand systems, in accordance with Elections Code sections 13004 and 13004.5. Finally this section specifies that approval for any printer or ballot on demand systems that predate these regulations will automatically expire two years from the date of their last successful biennial inspection, unless a new application is received. The inspections are biennial pursuant to 13004. Expiring the approval prior to the next inspection allows the Secretary of State to manage the workload and allows the ballot printers to plan for the reapproval process.

Sections 20201 – 20218 have generally been revised to reflect current ballot printing practices. Additionally, the terms have been renumbered to put the terms in alphabetical order.

**Section 20201**- Amends the term “card stock” to be “ballot paper.” This section has been amended to reflect current technology which uses paper to print a finished ballot on a printer.

**Section 20202** – Section 20202 currently defines “ballot on demand system.” The proposed regulations propose to revise and renumber that definition to section 20204. Proposed new section 20202 creates a definition for “ballot card

dimension” which is based upon the definition of “sheet dimension” in section 20212 which is proposed to be deleted.

**Section 20203** – The existing section 20203 is proposed to be deleted. The proposed new section 20203 adds a new term to define “ballot content” as the election material that is printed on the ballot. This is a new definition clearly defining the information contained on a ballot.

**Section 20204** – The existing section 20204 defining “card stock” is proposed to be deleted as it is a term based on old printing processes. Proposed new section 20204 proposes a simplified definition of “ballot on demand” which removes language no longer relevant with the inclusion of new regulations defining the scope of ballot on demand certification.

**Section 20205** – The existing section 20205 defining “finisher” is proposed to be deleted as it is a term based on old printing processes. The new proposed section 20205 is based on the old term “card stock” which is replaced with “ballot paper.” Ballot paper is a universal term to cover all types of blank paper used in the production of ballots.

**Section 20206** – The existing section 20206 defining “format” is proposed to be renumbered to section 20211 and amended to better define and clarify the pattern of voting locations, (e.g. three column left oval, two column right arrows, etc.). The new proposed section 20206 proposes adding a new term to define “ballot printer” as a company that manufacturers, finishes or sells ballot cards. The term is consistent with existing regulation language defining the certification of ballot printers.

**Section 20207** - The existing section 20207 defining “manufacturer” is proposed to be deleted, as it is a term based on old printing processes. The new proposed section 20207 adds the term “ballot style” to differentiation what comprises ballot styles.

**Section 20208** - The existing section 20208 defining “physical inventory” is proposed to be deleted as the definition is not needed. The new proposed section 20208 adds a new definition for “batch printing” to reflect the difference between ballot on demand ballots printed in batch (multiple styles printed at once for daily VBM ballots) as opposed to over the counter ballot on demand ballots which are printed one at a time.

**Section 20209** - The existing section 20209 defining “release” is proposed to be deleted as the definition is not needed. The new proposed section 20209 adds a new definition for “facility” to define the location where ballots are printed.

**Section 20210** - The existing section 20210 defining “roll” is proposed to be deleted as it is a term based on old printing processes. The new proposed section

20210 proposes a new definition for “finish” to reflect newer printing technologies that finish a ballot in one print from ballot paper.

**Section 20211** - The existing section 20211 defining “sheet” is proposed to be deleted as it is a term based on old printing processes. The new proposed section 20211 proposes a modify definition of “format” that is based on the existing section 20206 defining “format” to better define and clarify the pattern of voting locations, (e.g. three column left oval, two column right arrows, etc.).

**Section 20212** - The existing section 20212 defining “sheet dimension” is proposed to be deleted as it is a term based on old printing processes and was replaced by the term “ballot card dimension” in newly proposed section 20202. The new proposed section 20212 proposes adding a new term to define locations that conduct elections pursuant to the California Elections Code.

**Section 20213** – The existing section 20213 has been proposed to be renumbered to section 20215. The new section 20213 proposes to add a new term “manufacture” based in part on the existing definition of “manufacturer” to define a process used to create unfinished ballot cards to be used in California elections from ballot paper.

**Section 20214** - The existing section 20214 has been proposed to be renumbered to section 20216. The new section 20214 proposes to add a new term “test ballots” to define and clarify restrictions and requirements for creating test ballots. Test ballots have always been used in the process, however, there has never been a definition or requirements for those ballots. The requirements ensure that the test ballots are identical to what will be used with the tabulating equipment so that the testing is accurate.

**Section 20215** - The existing section 20215 defining “user” is proposed to be deleted as it is a term based on old ballot on demand requirements. Section 20213 is proposed to be amended to be new section 20215 which is proposed to be amended to incorporate the new definition for “ballot paper.”

**Section 20216** - The existing section 20216 defining “warehouse” is proposed to be renumbered to section 20217 and amended (see below). Section 20214 is proposed to be renumbered to section 20216 and amended to reflect the new definition of “ballot cards.” Also reflects the new printing capability to print a complete ballot in one print.

**Section 20217** - The existing section 20217 defining “watermark” is proposed to be renumbered to section 20218 (see below). Section 20216 is proposed to be renumbered to section 20217 and amended to incorporate the new definitions for “unfinished ballot cards” and “ballot cards.”

**Section 20218** - The existing section 20217 defining “watermark” is proposed to be renumbered to section 20218 and amended to incorporate the new definition for “ballot paper” instead of “card stock.”

**Section 20220** – The terms “vendor,” “manufacturer” and “finisher” are replaced with the universal term “ballot printer” to encompass all three terms. The terms “ballot card” and “unfinished ballot card” are also proposed to reflect the new terms and definitions proposed for the reasons identified above.

**Section 20220.5** – The existing section 20220.5 is proposed to be amended and renumbered to 20260 to relocate to the new Article 7 that deals exclusively with ballot on demand system requirements.

**Section 20221** – Pursuant to Section 13004.5 of the Elections Code, this section is modified language to clarify that the requirement of an application for certification refers explicitly to ballot printers (as opposed to ballot on demand printers). Also added is a new sub requirement for the printer’s application to clarify what processes and technologies the printer will employ, the type of ballots that will be printed, and to disclose known issues that could affect future use of their ballots. These new requirements are needed to properly identify the technologies and any issues that may affect the printing of ballots according to California law.

**Section 20222** – The existing section 20222 will be renumbered to 20225 to order requirements in the logical process for certification for ease of use. The new proposed section 20222 proposes a new process for certification testing of a printer’s capability to correctly print ballots: (a) through the Secretary of State or (b) through the voting system vendor (as they have traditionally done). This new option for testing through the Secretary of State was added because independent printing applicants have historically complained that voting system vendors have unnecessarily delayed testing of their ballots because the applicants were competing directly with the voting system vendors for printing business. A 90 day timeframe was added so that both processes will be of the same or similar duration.

**Section 20223** – The existing section 20223 will be renumbered to 20226 to order requirements in the logical process for certification for ease of use. The new proposed section 20223 proposes a new section that details specific requirements for accuracy testing to ensure all applicants are subjected to a uniform testing process and to ensure that the applicant is capable of printing quality ballots that meet voting system specifications. Additionally, 20223 proposes new requirements for the testing and certification process to include moisture testing in accordance with American Society for Testing and Materials (ASTM), which are incorporated by reference, and sets for the specific criteria for pass/fail of that moisture testing. The new requirement will be added because elections officials

have experienced moisture-related bleeding problems with ballots produced by the newer ink-jet processes.

**Section 20224** – The existing section 20224 will be renumbered to 20232 to order requirements in the logical process for certification for ease of use. The new proposed section 20224 specifies that the ballot printer seeking certification is responsible for all costs associated with the certification testing, which has always been the case with the historical process. However, by adding the new option for testing through the Secretary of State section 20224 was necessary to specify that and also indicate the process for when the Secretary of State performs the testing. The process of estimating costs, making a deposit into the Agency Trust Account, etc., is the same process utilized for other voting technologies, therefore the processes and procedures as well as the infrastructure needed are already in place to support the process. The estimated cost will be taken on a case-by-case basis depending on the type of ballot printer and the types of ballots being certified for printing.

**Section 20225** – The existing section 20225 will be renumbered to 20230 to order requirements in the logical process for certification for ease of use. The new proposed section 20225 proposes is an amendment of the existing section 20222 and was amended to conform to the newly defined terms ballot printer and ballot cards.

**Section 20226** – The existing section 20226 will be renumbered to 20229 to order requirements in the logical process for certification for ease of use. The new proposed section 20226 is proposed to conform to the newly defined terms ballot printer and ballot cards and to clarify that certification is based on conformance to California law and compliance with voting system specifications.

**Section 20227** – Section 20227 is amended to use the newly defined terminology “ballot printing” that will replace ballot “manufacturing” and “finishing”, and ballot cards that will replace “sheets” and “ballot sheets.” It will also clarify the language that the subcontractor must be certified because the original language referred to a certified facility and the Secretary of State actually certifies the entity. The language will also be modified to stipulate that the subcontract must be certified prior to printing any ballots so that the subcontractor’s ability to create compliant ballots is assured. Language will be removed requiring the Secretary of State to issue releases for subcontracted ballots because this practice has fallen off and become inconsistent without adverse effect.

**Section 20228** – Section 20228 is a new section which will require that the Secretary of State and the contracting jurisdictions be notified when the principal ballot printer subcontracts for folding and stuffing services. With respect to the Secretary of State, the section specifies that the notice be written and identifies required contents of the notice. This notice is necessary to ensure that the

Secretary of State and affected jurisdictions are aware of a subcontract for such services.

**Section 20229** – The existing section 20226 is renumbered to 20229 to order requirements in the logical process for certification for ease of use. The terms “ballot manufacturers” and “ballot finishers” were replaced with the new all-encompassing term “ballot printer.” Removed reference to ballot on demand systems as these will now be the subject of Article 7.

**Section 20230** – The existing section 20225 is renumbered to 20230 and the existing section 20230 will be renumbered to 20231 to order requirements in the logical process for certification for ease of use. Amended section 20230 will replace terms “ballot manufacturing and finishing” with the new encompassing term “ballot printing.” It will also broaden the list of specific things that cannot be changed without prior written certification from the Secretary of State to “any information contained within the application, excluding contact information.” This was done to ensure that Secretary of State has notice and a chance to deny any changes that could have an adverse impact on the ballots produced.

**Section 20231** – The existing section 20230 will be renumbered to 20231 to order requirements in the logical process for certification for ease of use. It will replace terms “ballot manufacturing and finishing” with the new encompassing term “ballot printing.”

**Section 20232** – Existing section 20224 is renumbered to 20232 to order requirements in the logical process for certification for ease of use. The terms “ballot manufacturer and finisher” will be replaced with the new encompassing term “ballot printer.”

**Sections 20233-20254** have been revised to describe a new, simplified process and requirements that make the ballot printer responsible for maintaining accurate detailed records about the production, shipment, and destruction of ballots and ballot materials, and then providing a copy of these records to the Secretary of State subsequent to the election. This change was made because the prior process was onerous, inconsistently applied, and offered little real protection.

**Section 20233** – Existing section 20235 is renumbered to 20233 to order requirements in the logical process for certification for ease of use. The term “user” has been replaced with “jurisdiction to be more specific. The terms “sheets” and “ballot sheets” will be removed because they are now encompassed in the term “ballot cards” as it has been redefined.

**Section 20234** – Existing section 20236 is renumbered to 20234 to order requirements in the logical process for certification for ease of use. No other changes are made to this section.

**Section 20235** – This new section will mandate that ballot printers create and maintain ballot card accounting records. It will also specify the information to be contained in those records including how and when they shall be submitted to the Secretary of State. In addition, ballot printers whom only finish the unfinished ballot cards from a manufacturer will include the name of the manufacturer who produced the unfinished ballot cards and the quantity received. The information to be submitted is necessary to identify who is printing, for which jurisdiction and election, and the quantity. The ballot card accounting records are to be submitted to the Secretary of State within 30 days of the election. This is sufficient time for the jurisdiction to complete their canvas and other election related activities, but also provides timely reporting to the Secretary of State.

**Section 20236** – Existing section 20236 is renumbered to 20234 to order requirements in the logical process for certification for ease of use. No other changes are made to this section.

**Section 20238-** Former sections 20250, 20251, 20252, and 20253 were combined and rewritten as 20238. This was done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use. A new report, the Ballot Scrap and Destruction report, and its elements are defined since the original requirements mandated entries in to the Activity Report that has been eliminated. Unused ballot cards and unfinished ballot material must be immediately destroyed or they may be stored in the warehouse until they are destroyed. Finished ballot cards must be destroyed at the conclusion of the canvass when they are no longer needed. This is because finished ballot cards present the most risk to an election. Finally, all Ballot Scrap and Destruction reports must be sent to the Secretary of State to ensure regulatory compliance and to ensure there is an adequate audit trail for a challenged election. The report is required to be submitted within 30 calendar days after an election or within seven calendar days of removal from the warehouse for purpose of scrap and destruction. This is sufficient time to provide timely and relevant reporting to the Secretary of State.

**Section 20240** is a new requirement to combine and address the requirements from former sections 20256, 20257, 20258, and 20259. The requirement to produce an Activity report and to submit it to the SOS upon finishing ballot cards was removed because of redundancy.

**Section 20241** was renumbered (from 20260) for ease of use. The term “sheets” was replaced with the newly defined term “ballot cards.”

**Section 20242** was renumbered (from 20261) for ease of use. The title of the section was changed from “Security; Responsibility” to “Shipment Responsibility” to more accurately reflect the subject of the section. The term “ballots” was replaced with “unfinished ballot cards or ballot cards” to be more precise and to



apply the requirement to all products that could present a security risk to elections.

**Section 20245** – This section was removed because the report mandated detailed records about outdated ballot manufacturing processes that are no longer in use, and because the reports required in amended sections 20235 and 20236 capture the data necessary for tracking.

Former **Section 20247** was renumbered to 20236 to order requirements in the logical process for certification for ease of use. The terms “manufacturers” and “finishers” were replaced by the new broader term “Ballot printer.” The section was amended to narrow the scope of the inventory control records to unfinished ballot cards because finished ballot cards are covered and tracked by the ballot card accounting records mandated in the previous section. The data elements captured in the inventory record were modified to specifically address unfinished ballot cards. Finally, the section was amended to require that a copy of the Warehouse Inventory Control Records be sent to the Secretary of State on a semi-annual basis. This was added to provide a means for the Secretary of State to verify ballot printer compliance on a regular basis without being too onerous on the ballot printers.

**Section 20249** - Section was removed because it describes security measures protecting printing plates from an obsolete technology that is no longer used in ballot printing.

**Section 20249.5** - Existing section 20249.5 is renumbered to 20237 to order requirements in the logical process for certification for ease of use. The terms “ballot manufacturer or finisher” will be replaced with the new encompassing term “ballot printer.” The requirement to keep the images on a closed network has been removed as it was unduly restrictive. Additionally, the requirement to send a copy of the log the Secretary of State was removed. Instead, the Secretary of State will inspect the logs when doing the facility inspections.

Former **Section 20250** was renumbered to Section 20238. Former sections 20250, 20251, 20252, 20253 and 20254 have been streamlined and combined into section 20238. This was done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use. The report is required to be submitted within 30 calendar days after an election or within seven calendar days of removal from the warehouse for purpose of scrap and destruction. This is sufficient time to provide timely and relevant reporting to the Secretary of State.

Former **Section 20251** was incorporated into Section 20238. Former sections 20250, 20251, 20252, 20253 and 20254 have been streamlined and combined into section 20238. This was done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use. This was

done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use.

Former **Section 20252** was incorporated into Section 20238. Former sections 20250, 20251, 20252, 20253 and 20254 have been streamlined and combined into section 20238. This was done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use.

**Section 20252** was renumbered from 20266 and modified to explicitly require ballot printers to maintain a list, whether electronic or physical, of employees that have access to printing equipment or ballot materials, identifying the specific access rights for each employee. The requirement was further modified to stipulate that the access list, together with an actual log of staff that physically access the warehouse facilities, must be stored with the warehouse – instead of sent to the SOS as previously required. This was changed to adapt to the various methods ballot printers grant access to their employees, whether electronic (key card) or a traditional lock and key. The language requiring the log be submitted to the Secretary of State was removed, as the Secretary of State can view the log during the biennial inspection of the ballot printer.

Former **Section 20253** was incorporated into Section 20238. Former sections 20250, 20251, 20252, 20253 and 20254 have been streamlined and combined into section 20238. This was done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use.

**Section 20253** was renumbered from 20267 and modified to clarify that every entry and exit of the warehouse must be logged whenever ballots or unfinished ballots are stored within. This change eliminates any requirement for unnecessary controlled access when ballot materials are not stored within the warehouse.

Former **Section 20254** was incorporated into Section 20238. Former sections 20250, 20251, 20252, 20253 and 20254 have been streamlined and combined into section 20238. This was done to simplify the requirements for handling unused ballot material, recognizing the new printing processes in use.

Former **Section 20255** has been renumbered to 20250 and is proposed to be amended to replace the terms “manufacturer (‘s)” and “finisher” with the new encompassing term “ballot printer.” The requirement to store completed ballot cards in a warehouse until shipment was reworded for clarity.

Former **Sections 20256, 20257, 20258, and 20259** are combined into section 20240. This was done to simplify the requirements and to order requirements in the logical process for ease of use.

Former **Section 20260** is renumbered to 20241 and amended to use the term “ballot cards” instead of “sheets” to reflect the new processes in printing. Additionally, the section is amended with the nonsubstantive change of removing the use of “by” in front of “train” and “air.”

**Section 20260** – Requires certification of ballot on demand systems. Vendors are prohibited from selling or leasing ballot on demand systems and jurisdictions are prohibited from purchasing or leasing such systems until the system has been certified by the Secretary of State. This new requirement explicitly permits jurisdictions to conduct research and development for a new system prior to certification. This requirement was added to restate the mandates of Elections Code section 13004.5.

Former **Section 20261** is renumbered to 20242 and amended to use the term “ballot cards” instead of “sheets” to reflect the new processes in printing.

**Section 20261** – The new Section 20261 requires a written application from an appropriate party to initiate the certification. It further stipulates the information required in the application. This was done to create an application process that parallels the current application processes for certification of ballot printers and voting systems including documentation of the system that will be needed to evaluate its fitness for certification.

Former **Section 20262** is deleted as it is no longer necessary to notify the Secretary of State.

**Section 20262** – New section 20262 that mandates, upon acceptance of an application for certification of a ballot on demand system, the system must be tested to verify its capability to print ballots that conform to the specifications set forth by the applicable voting system vendor(s). The testing can be done either by the Secretary of State or by a state-approved testing agency (after Secretary of State approval of a testing plan submitted by the testing agency.) This requirement was added in accordance with E.C. 13004.5(d) to create a testing process for certification of ballot on demand systems. The alternative of testing by a state approved testing agency ensures that testing can proceed without delays due to a scarcity of resources with the Secretary of State. The requirement of Secretary of State pre-approval of any testing plan for testing by a third party testing agencies was added to ensure that adequate testing of the applicant system occurs.

**Section 20263** – New section added to establish objective criteria for appraising an applicant system’s suitability for use in California and its ability to create ballots that conform to the voting systems’ specifications. This is necessary to ensure that the system can print ballots that can be accurately tabulated.

**Section 20264** – New section added to stipulate that the applicant is responsible for the costs of testing and certifying the proposed ballot on demand system. Further, the section establishes a process for collecting, managing, and disbursing funds provided by a vendor for certification of its system. Both of these mirror the existing processes for escrowed funds for testing voting technology and certifying ballot printers.

**Section 20265** – Original section 20265 (Warehouse Security) will be under the new Article 6 and replaced with a new section to stipulate that the SOS will certify in writing any system that it determines can produce ballots that comply with law and the voting system's specification for those ballots. Further, the system will permit the SOS to impose security measures on a certified ballot on demand system. This was included to ensure that such a system cannot compromise an election.

**Section 20266** – Former section 20266 was renumbered to section 20252 for ease of use. New section 20266 requires the Secretary of State to maintain and publish a list of certified ballot on demand systems. This requirement was added so that purchasing jurisdictions could verify a potential system had been certified and was eligible for use in California.

**Section 20267** – Former section 20267 was renumbered to section 20253 for ease of use. New section 20267 prohibits changes being made to a certified ballot on demand system without prior review and approval from the Secretary of State. This requirement was added to prevent deployment of untested and uncertified system modifications that could adversely impact elections.

**Section 20268** – New section added to allow the Secretary of State to revoke the certification of a system that is no longer capable of creating ballots in accordance with the specification or state law. This requirement was added to provide a mechanism to remove systems that could jeopardize an election.

**Section 20270** – New section added to stipulate that a jurisdiction cannot deploy a ballot on demand system until the system has been certified and the Secretary has approved the jurisdiction's use of the system. This was added so that the Secretary of State could ensure that the jurisdiction is employing adequate procedures to ensure the integrity of elections is not compromised by the ballot on demand system.

**Section 20271** – This new section sets forth the information that must be submitted by a jurisdiction seeking approval for its use of a ballot on demand system. This requirement was added to ensure the Secretary of State received sufficient information to evaluate a jurisdiction's proposed use of a ballot on demand system.

**Section 20272** – This new section requires a jurisdiction seeking approval for its use of a ballot on demand system to submit its proposed use procedures for that system. The section further lists specific elements that must be addressed in those use procedures. This requirement was added so that the Secretary of State can ensure that the jurisdiction has sufficient safeguards in place to prevent the ballot on demand system from compromising an election.

**Section 20273** – This new section requires the Secretary of State to approve a jurisdiction's application for use of a ballot on demand system if the jurisdiction's proposed procedures meet all requirements in Elections Code and these regulations. The section further stipulates that approval applies to the entire jurisdiction rather than specific deployment sites if the jurisdiction's procedures cover all such deployments. This was added because the prior approach to inspect and certify each site of deployment was burdensome as jurisdictions can change such sites with each election and unnecessary as long as they establish sufficient procedures for all deployments. Finally, the section permits counties to submit separate applications when they are deploying multiple ballot on demand systems for different uses. Separate applications permit the county to amend or drop one, while leaving the other in place and unaffected by the change.

**Section 20274** – This new section requires a jurisdiction submit a revised application and/or revised procedures for review and approval of the Secretary of State before deploying any changes to the system and its use procedures. This requirement was added to ensure that the Secretary of State can review proposed modifications to a previously approved system and prevent deployment of any changes that could compromise elections.

**Section 20275** – This new section permits the Secretary of State to revoke its permission for a jurisdiction's use of a ballot on demand system should it determine the jurisdiction is failing to comply with its approved use procedures. This requirement was added so that the Secretary of State can intervene if it determines a jurisdiction is putting elections at risk by compromising approved procedures.

**Section 20276** – This new section will permit the Secretary of State to inspect without notice jurisdiction facilities, equipment, documentation, and procedures to ensure jurisdictional compliance with the approved procedures. This requirement was added so that the Secretary of State can verify a jurisdiction's ongoing compliance with laws and these regulations.

**Section 20277** – This new section will require that any ballot on demand system used for batch printing of vote by mail ballots, must contain a ballot audit system. The ballot audit system must be able to verify the precinct, ballot style, ballot type, etc. This will insure the correct ballot card was printed as submitted by the ballot on demand system.

**Section 20278** – This new section will require that any ballot images used by the ballot on demand system be encrypted. This is necessary to ensure that the security of the ballot images and elections are not compromised.

**Section 20279** – This new section will require a jurisdiction using a ballot on demand system, prior to an election, to print and scan test ballots for that election from the ballot on demand system, and to verify they are accurately read and tabulated. This was added to require jurisdictions using a ballot on demand system to verify that they have correctly configured the system for each election.

**Section 20280** - New section 20280 further clarifies what shall be in a request made pursuant to Elections Code section 13002 for tint and watermark design, to be furnished by the Secretary of State. The section is consistent with historical practice of how requests are made and when the tint and watermark will be issued.

### Underlying Data

The Secretary of State did not rely on any technical, theoretical or empirical studies or reports in proposing the amendment and adoption of these regulations. However, the Secretary of State did rely upon the Economic Impact Assessment in making the determinations set forth in the fiscal impact estimates and economic impact assessment section of the Notice of Proposed Rulemaking Action.

## **ECONOMIC IMPACT ASSESSMENT**

In accordance with Government Code Section 11346.3(b), the Secretary of State has made the following assessments regarding the proposed regulation:

### Creation or Elimination of Jobs within the State of California

In proposing the regulations relating to these ballot printing regulations, no jobs in California will be created or eliminated. The Secretary of State has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California, because these changes amend definitions, and add updates to conform to requirements for ballot on demand systems, and ballot on demand users pursuant to section 303.4, as well as commercial printing pursuant to section 13004. These changes also clean up outdated requirements that are no longer relevant to ballot printing and manufacturing.

The proposed changes provide ballot printers, as well as ballot on demand systems standards to which they can be tested against in order to obtain certification. In addition, pursuant to section 13004.5(d) of California Elections Code, they provide clear regulations that reflect requirements of sections 303.4

and 13004.5. The updated regulations provide flexibility for county users to implement ballot on demand systems as they were intended to be used.

#### Creation of New or Elimination of Existing Businesses within the State of California

In proposing the regulations relating to these ballot printing regulations, no new businesses in California will be created or existing businesses eliminated, because the proposed regulations and amendments to existing regulations were drafted for purposes of certifying ballot on demand systems pursuant to California Elections Code section 13004.5(d). These changes amend definitions, and add updates to conform to requirements for ballot on demand systems, and ballot on demand users pursuant to section 303.4, as well as commercial printing pursuant to section 13004. These changes also clean up outdated requirements that are no longer relevant to ballot printing and manufacturing.

The proposed changes provide ballot printers, as well as ballot on demand systems standards to which they can be tested against in order to obtain certification. In addition, pursuant to section 13004.5(d) of California Elections Code, they provide clear regulations that reflect requirements of sections 303.4 and 13004.5. The updated regulations provide flexibility for county users to implement ballot on demand systems as they were intended to be used.

#### Expansion of Businesses or Elimination of Existing Businesses within the State of California

In proposing the regulations relating to these ballot printing regulations, no existing businesses in California will be expanded and/or eliminated, because these changes amend definitions, and add updates to conform to requirements for ballot on demand systems, and ballot on demand users pursuant to section 303.4, as well as commercial printing pursuant to section 13004. These changes also clean up outdated requirements that are no longer relevant to ballot printing and manufacturing.

The proposed changes provide ballot printers, as well as ballot on demand systems standards to which they can be tested against in order to obtain certification. In addition, pursuant to section 13004.5(d) of California Elections Code, they provide clear regulations that reflect requirements of sections 303.4 and 13004.5. The updated regulations provide flexibility for county users to implement ballot on demand systems as they were intended to be used.

#### Benefits of the Regulations

The proposed regulations and amendments to existing regulations were drafted for purposes of certifying ballot on demand systems pursuant to California Elections Code section 13004.5(d). These changes amend definitions, and add updates to conform to requirements for ballot on demand systems, and ballot on demand users pursuant to section 303.4, as well as commercial printing pursuant

to section 13004. These changes also clean up outdated requirements that are no longer relevant to ballot printing and manufacturing.

The proposed changes provide ballot printers, as well as ballot on demand systems standards to which they can be tested against in order to obtain certification. In addition, pursuant to section 13004.5(d) of California Elections Code, they provide clear regulations that reflect requirements of sections 303.4 and 13004.5. The updated regulations provide flexibility for county users to implement ballot on demand systems as they were intended to be used. All of the above referenced purposes benefit local county election officials, ballot printers and generally make the process of producing ballots more efficient.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States

The proposed regulation and amendments to existing regulations merely propose to implement, interpret or make specific existing requirements and procedures for ballot printing, therefore, the proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The alternative to these regulations is to not change them which results in having provisions that don't match current business practices.