

**State of California  
Office of Administrative Law**

**In re:**  
**Secretary of State**

**Regulatory Action:**

**Title 02, California Code of Regulations**

**Adopt sections:** 2024.5

**Amend sections:** 20021, 20022, 20023,  
20024, 20025, 20026,  
20027

**NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE**

**Government Code Sections 11349.1 and  
11349.6(d)**

**OAL Matter Number: 2023-0120-01**

**OAL Matter Type: Certificate of Compliance  
(C)**

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This action makes permanent an emergency regulation that added a method for military and overseas voters and voters with disabilities to complete conditional voter registration and cast a provisional or nonprovisional ballot.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

**Date:** March 1, 2023



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Ashita Mohandas  
Attorney

**For:** Kenneth J. Pogue  
Director

**Original:** Dr. Shirley N. Weber, Secretary  
of State

**Copy:** Rachelle Delucchi

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2022-0816-05	REGULATORY ACTION NUMBER 2023-0120-01	EMERGENCY NUMBER C
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For use by Office of Administrative Law (OAL) only

ENDORSED - FILED

In the office of the Secretary of State  
of the State of California

MAR 01 2023

3:06pm

OFFICE OF ADMIN. LAW  
2023 JAN 20 PM 12:32

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
SECRETARY OF STATE

AGENCY FILE NUMBER (if any)

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2022-34-Z	PUBLICATION DATE 8/26/2022

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) CONDITIONAL VOTER REGISTRATION	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2022-0414-01E, 2022-1018-02EE
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## 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 20024.5
	AMEND 20021, 20022, 20023, 20024, 20025, 20026, 20027
	REPEAL
TITLE(S) 2	

## 3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)		<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify)	

## 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

## 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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## 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON RACHELLE DELUCCHI	TELEPHONE NUMBER (916) 764-5934	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rdelucch@sos.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Susan Lapsley</i>	DATE January 20, 2023
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TYPED NAME AND TITLE OF SIGNATORY  
SUSAN LAPSLEY, DEPUTY SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 01 2023

Office of Administrative Law

**California Secretary of State**  
**Proposed Regulatory Action: Conditional Voter Registration**  
**(Certificate of Compliance)**

**Final Text of Proposed Regulations (No Changes to Emergency Regulations)**

California Code of Regulations  
Title 2. Administration  
Division 7. Secretary of State  
Chapter 1. Voter Registration  
Article 3.5 Conditional Voter Registration.

**20021. Definitions.**

(a) "Conditional voter registration" ("CVR") has the same meaning as set forth in subdivision (a) of Elections Code section 2170.

(b) A "CVR voter" is a person as described in subdivision (b) of Elections Code section 2170 and who, on Election Day or during the fourteen (14) days immediately preceding Election Day, does both of the following:

(1) Delivers an executed affidavit of registration to the county elections official in order to register to vote in California for the first time, or re-register to vote in the same or a different county in California, or as a military or overseas voter. The executed affidavit of registration can be submitted in either of the following ways:

(A) in person at any permanent office of the county elections official, at any vote center or polling place, or at any satellite office designated by the county elections official, or

(B) through the internet website of the Secretary of State. For purposes of this Article and subparagraph, if the voter is registering as a military or overseas voter or is a voter with disabilities, the voter may request to cast a ballot using a certified remote accessible vote by mail system but only if their affidavit of registration submitted through the internet website of the Secretary of State contains their signature.

(2) Requests a ballot in either of the following ways:

(A) in person at any permanent office of the county elections official, at any vote center or polling place, or at any satellite office designated by the county elections official, or

(B) by contacting their county elections official to request access to a certified remote accessible vote by mail system if the voter is a military or overseas voter or a voter with disabilities.

(c) If a provisional ballot is issued to a CVR voter, it is referred to as a "CVR provisional ballot." If a nonprovisional ballot is issued to a CVR voter, it is referred to as a "CVR ballot." A CVR provisional ballot or CVR ballot can be cast using a certified remote accessible vote by mail system.

(d) "Satellite office" has the same meaning as "satellite location," as used in subdivision (b) of Elections Code section 3018.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 300, 303.3, 2170, 2171, 2172, 2173, 2196, 3016.7, 3102, 3018, 4005, 4007, 14310, 14311 and 19281, Elections Code.*

## **§ 20022. Affidavit of Registration.**

To conditionally register to vote, CVR voters shall use the same affidavit of registration as other voters - either a paper form or through the internet website of the Secretary of State.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 2150, 2151, 2152, 2156, 2157, 2170, 2171 and 2196, Elections Code.*

## **§ 20023. Availability of Conditional Voter Registration; 14-Day Notice to Secretary of State.**

(a) County elections officials shall offer:

(1) CVR in person at any permanent office of the county elections official, at any vote center or polling place, or at any satellite office designated by the county elections official, or through the internet website of the Secretary of State and as is described in subdivisions (d) through (f) of Elections Code section 2170, and

(2) CVR provisional ballots or CVR ballots to CVR voters, in accordance with subdivisions (e) and (f) of Elections Code section 2170.

(b) If a satellite office has been designated by the county elections office,

(1) the county shall notify the Secretary of State no later than 14 days prior to voting and provide the location, operating hours, and contact information, and

(2) the Secretary of State shall post that information on the Secretary of State website.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 303.3, 2170, 2171, 2196, 3016.7, 4005(a), 4007, 14279 and 14310, Elections Code.*

## **20024. Conditional Voter Registration Provisional Ballot Return Envelope.**

CVR provisional ballot return envelopes provided by county elections officials shall look visibly different from all other ballot return envelopes. The visual difference can include, but is not limited to, different envelope color or a stamp or other marking mechanism used on CVR provisional ballot return envelopes.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 303.3, 2170, 2171, 3016.7 and 14310, Elections Code.*

## **20024.5. Conditional Voter Registration Ballot Cast Using A Remote Accessible Vote-by-Mail System.**

A county elections official shall, prior to providing a CVR voter a ballot to be cast using a certified remote accessible vote by mail system, indicate in their county Election Management System (EMS) and/or otherwise flag the CVR ballot to ensure the CVR ballot will be reviewed prior to being processed.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 303.3, 305.5, 2170, 2171, 2500, 3016.7, 14310 and 19281, Elections Code.*

## **20025. Conditional Voter Registration Provisional Ballot Processing and Return Statuses.**

If a voter's conditional voter registration is deemed effective pursuant to Elections Code section 2170, the county elections official shall process a voter's CVR ballot as they process other nonprovisional ballots, and shall process a voter's CVR provisional ballot as provided in this section.

(a) To the extent feasible and when applicable, a county elections official shall verify that all other counties have applied polling place voter participation history before adjudicating their CVR provisional ballots.

(b) The county elections official shall immediately upon adjudication of the voter's CVR provisional ballot, enter into the statewide voter registration system a ballot return status and reason code.

(c) The ballot return status of a ballot shall be indicated as either:

1. "Counted," or
2. "Not Counted."

(d) If the voter is registering for the first time in California, the county elections official shall assign the CVR provisional ballot:

- (1) A ballot return status of "Counted" or "Not Counted," and
- (2) An appropriate reason code in accordance with section 20026 if the ballot status is "Not Counted."

(e) If the voter is re-registering in California, the county elections official shall:

- (1) Conduct research using the statewide voter registration system to determine if the CVR provisional ballot shall be "Counted" or "Not Counted."
- (2) Assign the CVR provisional ballot a ballot return status of "Counted" or "Not Counted."
- (3) Assign an appropriate reason code in accordance with section 20026 if the ballot return status is "Not Counted."

(f) CVR provisional ballot information referred to in (d) and (e) above, indicating whether a CVR provisional ballot is counted or if it is not counted and the reason why it was not counted, shall be displayed on the Secretary of State's "My Voter Status" page, along with the voter participation history.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 2170, 2171 and 14310, Elections Code.*

## **§ 20026. Conditional Voter Registration Provisional Ballot Reason Codes.**

(a) For all CVR provisional ballots where the ballot return status is "Not Counted," an appropriate reason code shall be assigned by the county elections official.

(b) If a CVR provisional ballot has not had a final adjudication, the county election official shall assign the ballot return status of "Not Counted" and either a temporary rejection reason code of "In review," or one of the applicable rejection reason codes set forth in subdivision (c) below. Upon the final adjudication of the ballot, "In review" shall be replaced with either a ballot return status of "Counted" or with a rejection reason code for "Not Counted" as provided in subdivisions (c) and (d) below.

(c) A county elections official shall not count a CVR provisional ballot and shall assign the ballot a status of "Not Counted" with one of the reason codes listed below:

1. "Voter already voted." This reason code shall be used when the voter has an accepted or counted ballot in California for that election, when the voter has previously
  - (A) voted at a location as provided in Elections Code section 338.5,
  - (B) returned a vote-by-mail (VBM) ballot in California that was accepted by a county elections official,
  - (C) returned a provisional ballot that has been processed and counted in the same or another county, or
  - (D) returned a CVR provisional ballot that has been processed and counted in the same or another county.
2. "No voter signature." This reason code shall be used when the voter did not provide a signature on the CVR provisional ballot envelope.
3. "Non-matching signature." This reason code shall be used when the voter provided a signature on the CVR provisional ballot envelope that did not compare to the signature on file with the county.
4. "Ballot missing from envelope." This reason code shall be used when the CVR provisional ballot envelope did not contain a ballot.
5. "Voter not registered." This reason code shall be used when the voter's record is in a deficient status pursuant to Elections Code section 2150 et seq., which means the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.
6. "Envelope was incomplete and/or illegible." This reason code shall be used when the substantive information provided on the CVR provisional ballot envelope was missing or unclear.
7. "No ID provided." This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter, did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of Article 2.5 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, and they did not provide the information required by Section 20107 of Article 7 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.
8. "Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c)(1-7) above.

(d) The following additional reason codes apply to provisional ballots cast pursuant to Elections Code section 14310, but are not applicable to CVR provisional ballots:

1. "Voted in wrong county."
2. "Voted wrong ballot."

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 2170, 2171 and 14310, Elections Code.*

**§ 20027. Voter Participation History.**

- (a) The county elections official shall send voter participation history to the statewide voter registration system in near real time starting with the first day of voting for each voter that has participated in a specific election.
- (b) Voter participation history shall accurately indicate the method of participation, vote-by-mail, polling place, vote center, CVR, or Nonprovisional CVR.
- (c) Voter participation history shall be displayed on the Secretary of State's "My Voter Status" page.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 2170, 2171, 14310 and 15375, Elections Code.*