

**State of California
Office of Administrative Law**

In re:
Secretary of State

Regulatory Action:

Title 02, California Code of Regulations

Amend section: 20136

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2021-0812-01

OAL Matter Type: Emergency Readopt (EE)

This action by the Secretary of State readopts emergency amendments that extend the time in which ballots must be retrieved from unstaffed vote-by-mail drop boxes from 24 hours to 48 hours. (See OAL file nos. 2020-0616-01E; 2021-0421-01EE.)

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on August 18, 2021 and will expire on November 17, 2021. The Certificate of Compliance for this action is due no later than November 16, 2021.

Date: August 18, 2021



Nicole C. Carrillo
Attorney

**For: Kenneth J. Pogue
Director**

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

EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2021-0812-016
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY SECRETARY OF STATE			AGENCY FILE NUMBER (If any)

ENDORSED - FILED
Office of the Secretary of State
of the State of California

AUG 18 2021

1:21 PM

OFFICE OF ADMIN. LAW
2021 AUG 12 PM 2:41

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 Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Vote-by-Mail Drop Boxes and Vote-by-Mail Drop-off Locations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2020-0616-01E, 2021-0421-01
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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
	AMEND
	20136
TITLE(S)	REPEAL
TITLE 2	

3. TYPE OF FILING		
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> File & Print <input type="checkbox"/> Print Only
		<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)

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 Robbie Anderson	TELEPHONE NUMBER (916) 216-6488	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) aanderso@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 	DATE August 12, 2021
TYPED NAME AND TITLE OF SIGNATORY Lisa Martin, Chief of Staff	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 18 2021

Office of Administrative Law

**California Secretary of State
Proposed Regulatory Action:
Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations
(Second Readoption of Emergency Regulations)**

**Proposed Regulations Text
Showing Changes to Emergency Regulations Text**

Note: The California Secretary of State is proposing additional changes to the Emergency Regulations Text as part of the readoption regulatory action. Additional changes to subdivision (c) of section 20136 are shown in strikethrough and underline, with eliminated text struck and new text underlined.

Title 2. Administration
Division 7. Secretary of State
Chapter 3. Voting Locations
Article 1. Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations

20136. Drop-off Location and Drop Box Hours. Public Notification. Collection Times.

(a) The county elections official shall publicly announce the locations of drop-off locations and drop boxes at least 30 days prior to the election. The announcement must include the days and estimated times a particular staffed drop box will be available. The announcement must also include information on accessibility, including wheelchair access, for each drop-off location and drop box. Information shall be included in the county's Voter Information Guide and Sample Ballot publications, included in vote-by-mail materials sent to voters, and conspicuously posted on the county elections official's website. In the event any changes are made to locations and/or schedules, the information posted on the elections official's website shall be updated within 24 hours.

(b) For the purpose of posting the locations on the Secretary of State's website and to include information in any relevant election materials, the county elections official shall notify the Secretary of State of the drop-off and drop box locations, and the dates and estimated hours of availability, at least 30 days prior to the election. In the event any changes are made to locations and/or schedules, the Secretary of State must be notified within 24 hours.

(c) Drop boxes shall be locked and covered, or otherwise made unavailable to the public until the ~~29th day prior to the election~~ day the elections official begins mailing vote-by-mail ballots, to ensure that no ballots or any other materials may be deposited before the vote-by-mail period begins. The elections official shall determine the appropriate method or design to make the drop boxes unavailable for use. Prior to use ~~on the 29th day~~ before the election, all drop boxes shall be inspected for damage and to ensure they are empty.

(1) A county elections official who provides a drop box outside of their office throughout the year for the purpose of voters delivering completed voter registration affidavits shall not be required to lock and cover those drop boxes.

- (2) In the event drop boxes are deployed on the 60th day prior to an election for use by military and overseas voters, the provisions of this Article must be followed.
- (d) Ballots shall be retrieved from drop boxes at times determined by the elections official, but shall be subject to the following:
- (1) Ballots shall be retrieved from both staffed and unstaffed drop boxes at least every 96 hours, excluding Saturdays and Sundays, between the 29th day before the election and the 10th day before an election.
 - (2) Ballots shall be retrieved from staffed drop boxes at least every 72 hours, excluding Saturdays and Sundays, after the 10th day before the election through the closing of the polls on Election Day. The elections official shall develop procedures for contacting locations of staffed drop boxes between ballot retrieval periods to determine if an additional retrieval is needed.
 - (3) Ballots shall be retrieved from unstaffed drop boxes every 48 hours, excluding Saturdays and Sundays, hours after the 10th day prior to an election through the closing of the polls on Election Day.
- (e) Upon the closing of the polls on Election Day, all drop boxes shall be locked and covered or otherwise made unavailable at 8:00 p.m. to ensure that no ballots are dropped off after the polls have closed. In the event there are voters in line at 8:00 p.m., or a court order has been issued extending the time for the closing of the polls, the drop boxes may remain open until those voters have cast their ballot or the court order extending time has lapsed.

Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 3025, Elections Code. Reference: Sections 3005.5, 3025, Elections Code.