

**California Secretary of State
Proposed Regulatory Action:
Ballot Counting
Final Statement of Reasons**

UPDATED INFORMATIVE DIGEST

There have been no changes to the laws or effects of the regulations described in the original 45-day Notice of Proposed Regulatory Action. As such, no change has been made to the “Informative Digest.”

UPDATE OF INITIAL STATEMENT OF REASONS

Non-substantive changes were made to Section 20284(b). Specifically, the phrase “hand-to-eye” was struck out and replaced by the term “manual tally” to reflect the new definition outline in the proposed section 20297. Additionally, “Section 20983” was struck out and replaced by a reference to the newly proposed chapter 4.6. These non-substantive changes were included in the initially noticed proposed text of regulations and the amended text, however, they were not shown in underline and strikeout.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

No alternatives were proposed to the Secretary of State that would lessen any adverse economic impact on small businesses. These regulations will not have any adverse economic impact on businesses because these regulations pertain to the counting of ballots and are conducted by California elections officials.

ALTERNATIVES DETERMINATION

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost effective to affected private persons and equally effective in implementing and achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific by this rulemaking.

Alternative 1: Do not Promulgate the Proposed Regulatory Action

The proposed regulations provide California jurisdictions and California voters with clarity and uniform practices on how ballots are to be counted when doing so manually. The proposed regulations provide necessary processes and requirements to ensure security, chain of custody, accuracy, fairness and accessibility in the process. Not promulgating the proposed regulatory

action may result in California's 58 counties each having widely different processes and procedures, the processes not being secure, chain of custody not being properly maintained and accounted for, the results not being accurate, and the process not being fair and accessible. Furthermore, the failure by election officials to use standardized and uniform procedures creates legal liability for state and local election officials and also increases the likelihood of candidate and voter challenges of election results. Additionally, the lack of standardized and uniform regulations may jeopardize the ability of county and local officials to timely complete the canvass and timely report state and federal election results to the Secretary of State's office. The failure to timely certify an election could have significant and unprecedented state and national impacts.

The Secretary of State has determined that not promulgating the proposed regulatory action would not be more effective in carrying out the purpose for which the action is proposed or would not be as effective and less burdensome to affected private persons or would not be more cost effective to affected private persons and equally effective in implementing and achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific by this rulemaking.

Alternative 2: Alternative Methods for the Selection of Ballots to Tally for a 1% Manual Tally

Alternative methods for randomly selecting precincts or batches for the one percent manual tally were proposed and considered.

The methods included in the proposed regulations were developed in conjunction with California elections officials.

The Secretary of State has determined that the alternative methods for selection ballots for the one percent manual tally would not be more effective in carrying out the purpose for which the action is proposed or would not be as effective and less burdensome to affected private persons or would not be more cost effective to affected private persons and equally effective in implementing and achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific by this rulemaking.

Alternative 3: Using the one percent manual tally process to audit the full manual tally over the use of a certified voting system

The alternative method for using a one percent manual tally audit in lieu of a certified voting system tabulator to audit the fully manual tally was proposed and considered.

Elections Code section 15360 requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a certified voting system. There is no current statute to provide guidance on how to conduct an audit of a full manual tally of votes. The proposed regulations are necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

The Secretary of State has determined that a one percent manual tally audit of a full manual tally would be redundant and not adequate. In the proposed regulations the use of a certified voting system tabulator, pursuant to Elections Code section 19202, is a comprehensive and accurate method of verification of the manual tally election results. The use of a certified voting system tabulator in the auditing process of the manual tally is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

The Secretary of State has determined that the use of a one percent manual tally audit in lieu of a certified voting system would not be as effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would not be more cost effective to affected private persons and equally effective in implementing and achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific by this rulemaking.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

PUBLIC COMMENTS

The Secretary of State received 201 public comments during the 45-day public comment period and 28 comments were provided during the public hearing that was held on July 3, 2023. The Secretary of State received 25 public comments during the 15-day public comment period.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL 45- DAY NOTICE PERIOD ENDING JULY 5, 2023

Comment No. 1: Update the definition of a “blank ballot” in Section 20281 to address inconsistencies in the uniform vote counting standards sections. In section 20281(a), the definition includes the condition of a ballot marked with an unreadable marker. However, in later sections 20282(b) through 20282(d) and 20283(c), guidance is provided on how to count ballots marked with writing utensils that are unreadable to the voting systems. (George Blessing)

Response: The Secretary of State acknowledges this comment and has amended section 20281(a), by removing the phrase “, or one which has been marked with an unreadable marker, or one which has been consistently marked outside of the ‘read’ area of the ballot scanner.” The amendment was made to provide clarification as to what constitutes a blank ballot and to reduce inconsistencies in the existing regulations.

Comment No. 2: In opposition of requiring a full machine audit of the manual tally, using the term bipartisan in section 20300(a), and mandating that the manual tally should occur at one location with the counting boards seated at tables separated by 10 feet. Additionally, in opposition of the 25 ballot stack limits, the requirement of counting boards signing a declaration of intent prior to conducting the manual tally, and only allowing elections officials two tries to submit their manual tally plans to the Secretary of State for review. (Jay Daggett)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

The requirement to require a full machine count audit of the manual tally has remained unchanged. Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. This condition is necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

The suggested comment on removing the term bipartisan from Section 20300(a) was not made. The term bipartisan is defined in the Merriam-Webster dictionary as “of, relating to, or involving members of two parties.” In section 20300(b) the composition of the counting board is intended to encourage transparency in the elections process, ensure that the ballots are being counted fairly and that no one political party is being favored over another.

The submitted comment requesting a removal of Section 20298(b)(1), which states that the elections officials are allowed to conduct a manual tally at designated central return locations, has remained unchanged. Section 20298(b)(1) allows for the flexibility of multiple locations to accommodate the necessary number of counting boards. Section 20303(f) was amended to remove the single table requirement and the 10 feet distance between the tables. This amendment is intended to allow for more flexibility in the planning and implementation for the elections official with the selection and setup of central return locations.

The requirement to not exceed stacks of 25 ballots in section 20303(a)(5) has remained unchanged. The process of counting ballots by hand is labor intensive and hand counters can become tired. The 25-ballot stack limitation is designed to help lower the chances of human error when counting ballots.

The requirement to have the counting boards sign a declaration of intent prior to conducting the manual tally has remained unchanged. This requirement is consistent with and directly follows section 12321 of the California Elections Code, which states that the precinct board members and inspectors shall sign a declaration of intention. Additionally, Elections Code section 15207 states that counting boards shall be deemed to be precinct boards. Therefore, subsection 20300(e) is necessary to clarify that a declaration is required by a counting board and is necessary to be consistent with state law.

The requirement for allowing the elections official two attempts to submit their manual tally plans to the Secretary of State for review remains unchanged. Section 20299 outlines the requirements for submission of the manual tally plan to the Secretary of State. This section is necessary to provide the elections official with clear requirements regarding the timeline for submission and the approval or rejection of the manual plan. Section 20299 was amended to adjust the submission timeline of the manual tally plan and require the Secretary of State to provide a list of written deficiencies when rejecting the plan. The timeline for submission was

adjusted from 120 calendar days to 80 calendar days prior to the date of the election and the deadline timeline was adjusted from 90 calendar days to 70 calendar days prior to the date of the election. The adjustment to the timeline was necessary to provide the elections officials with sufficient time to develop the manual tally plan prior to conducting an election.

The proposed regulations afford an election official two opportunities to submit their manual tally plan to the Secretary of State. The amendment to subsection 20299(d) was necessary to ensure the Secretary of State provides the elections official with the reasons why a manual tally plan was rejected. The condition of only allowing two submissions is in consideration of the limited time elections officials have when planning and conducting an election.

Comment No. 3: Require all votes that are tallied by hand to be verified for accuracy with a machine tabulation. (Brad Garbutt)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Section 20305 of the proposed regulations requires the elections official to use a certified voting system to conduct an audit of all ballots counted in the manual tally.

Comment No. 4: Has complete and utter confidence in the voting systems used in Shasta County under the direction of Cathy Darling and regrets the decision made by the Board of Supervisors to remove the Dominion voting system. (Linda Schreiber)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 5: In support of the proposed regulations. (Margaret Ramirez)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 6: The Alameda County Taxpayers' Association (ACTA) and other parties has concerns regarding ballot counting in Alameda County, especially after the November 2022 Oakland Unified School District, where the certified winner was later found to not have won. The race was unusually close with the number of suspended ballots larger than the margin of victory. The error with the ranked choice voting "computer settings" should have been detected during the one percent manual tally, yet the Alameda County Registrar of Voters reported no discrepancies.

The Alameda County One Percent Manual Tally in November 2022 was not conducted in accordance with law. The most egregious violation was that three of the twenty-one manual tally tables were completely hidden from public view. This issue was reported in real-time to the Secretary of State, who was disinterested in investigating. Under Government Code 12172.5, the

Secretary of State has the authority to investigate and address problems with ballots counting, yet Secretary Weber failed to do so after being notified about the ballot counting issues in Alameda in the November 2022 election.

California's ballot counting statutes and regulations are virtually meaningless because the California Secretary of State abdicates her duty to investigate and remedy violations. Secretary Weber is hostile to voter complaints about ballot counting violations and has a practice of being subservient to the 58 County Election Officials and against established law and interests of the 10+ million registered voters of California. (Jason Bezis)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 7: The proposed regulations usurp the authority of the counties to decide how to conduct their elections. This is a violation of the California Constitution, and the proposed regulations should be rescinded. Concerns regarding the reliability and legitimacy of the documents relied upon to prepare for these regulations. All elections should be on paper ballots and counted by hand in their precincts to ensure maximum accountability and accuracy. (Cheryl Frink)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulation do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring "that elections are efficiently conducted and that state election laws are enforced."

The referenced information in the Initial Statement of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

In California, all voting is conducted using paper ballots or by certified voting systems that produce a paper ballot.

Comment No. 8: The proposed regulations are inconsistent and incompatible with state law. The Secretary of State does not have the authority to regulate hand counting of ballots since Elections Code section 15270 already outlines the procedure for hand counting ballots. Cited Elections Code sections 362, 19207, 19400(f) to state the definition of a voting system. Cited Elections Code section 19207.5, which is a proposed amendment in Assembly Bill 969. (Rainie Jaeger)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administration of state election laws.

Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations are intended to provide clear and concise guidance on how to conduct a full manual tally of ballots.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 9: The proposed regulations are not sufficient to address manual tally of ballots. The two articles and YouTube video cited in the initial statement of reasons are inadequate to demonstrate the inefficiencies of manually tallying ballots. Section 20298(b)(1) should specifically state that manual tallies of ballots can occur at either a polling site or a central location. Section 20299 should be removed or amended to state that the governing body of a county is the only authority to approve the plan to conduct a manual tally. (Susan Stivers)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

The referenced information in the Initial Statement of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

Section 20298(b)(1) states that a manual tally shall be conducted at a county designated central return location(s) pursuant to Elections Code sections 15260 and 15261. Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allow for the ballots to be counted at the precinct.

Government Code section 12172.5 authorizes the Secretary of State to require elections officers to make reports concerning elections in their jurisdictions. The Secretary of State has historically

requested plans and reports from elections officials to coordinate and ensure the successful implementation and conduct of elections.

Under Elections Code section 10, the Secretary of State is the chief elections official for the state and oversees all statewide elections and under Government Code section 12172.5 has the express authority to adopt regulations to “ensure the uniform application and administration of state election laws.” The governing body of a jurisdiction oversees all local elections. Commenter provides no specific authority to support the claim that the governing body of a county is the only authority to “approve the plan to conduct a manual tally.” The Elections Code provides the rules by which a county must conduct an election.

Comment No. 10: Assembly Bill 969 has not passed therefore the Secretary of State is usurping the legislative process by moving forward with the proposed regulations. Request that the regulatory action be stopped. The two articles and YouTube video cited in the initial statement of reasons are inadequate to demonstrate the inefficacies of manually tallying ballots. (Pearl Boelter)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administration of state election laws.

The referenced information in the Initial Statement of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

Comment No. 11: The comment submitted is the same comment submitted above in Comment No. 8. This comment was submitted via email and twice by mail. (Ruthi Kuhn)

Response: Please see response above to Comment No. 8.

Comment No. 12: The comment submitted is the same comment submitted above in Comment No. 8. This comment was submitted via email and by mail. (Margaret Cantrell)

Response: Please see response above to Comment No. 8.

Comment No. 13: The comment submitted is the same comment submitted above in Comment No. 8. This comment was submitted via email and by mail. (Bruce Russell)

Response: Please see response above to Comment No. 8.

Comment No. 14: The commentor provided twenty-six comments on the proposed regulations. Below is a summary of each comment. (Ashley Titus)

1. Should “central return location” be changed to “central counting center” to use existing terminology found in Elections Code?
2. The Elections Code provides for counting ballots at precincts in sections 15270-15281. Regulations section 20298(a) should have a subsection (a)(4) added to recognize that counting of ballots can occur at precincts.
3. In section 20298(b)(1), the reference to Elections Code section 15260 should be stricken since it refers to “return centers” and not “counting centers”.
4. In section 20298(c) should referenced Chapter 4.7 be 4.8?
5. In section 20298(c) should reference Chapter 4.8 be 4.7?
6. In section 20299 move subsection 20299(f) to 20299(b) for proper sequencing of steps in which they occur, then re-lettering the other sections.
7. In support of requirement to post the approved manual tally plan in a conspicuous place at the elections office and on the elections officials' website. Suggest adding in a date by which the plan must be posted from date of approval.
8. Suggest switching subsections 20299(e)(2) and 20299(e)(3) so that they occur in the chronological order.
9. Subsection 20299(f) is overly micromanaging on how the county can design the manual tally plan. The counties should have more flexibility in designing their plans to fit their circumstances and resources. Specifically, the requirement in subsection 20299(f)(7)(B) for a scale diagram should be removed.
10. The requirement to have a separate counting board for each contest on the ballot in subsection 20300(b) seems overly burdensome and impractical. Counties should have more flexibility in determining how to count the ballots. In support of the requirement to have the counting boards include representation from more than one qualified political party and No Party Preference (NPP) registered voters, if feasible.
11. Suggest incorporating a way to distinguish each round of counting the same stack of ballots so there isn't inadvertent double counting of the same stack. The tally sheets should be designed to include some notation of a “round” and “batch number”.
12. Suggest including “other qualified parties” in subsection 20306(c)(4).
13. In subsection 20306(d) the punctuation at the end of the line should be fixed to a period.
14. Is section 20307 necessary since these requirements are covered by the observer regulations?
15. Suggest adding “by the elections official” to subsection 20307(b) to provide clarity that the elections official has the authority to require identification badges.

16. In support of subsection 20312(a)(1) for the requirement of making public the manual tally procedures in advance of conducting the tally. Would suggest adding a requirement to make these procedures available earlier than five days.
17. Suggest adding in a section between sections 20314 and 20315 on “how to conduct the manual tally” without being overly micromanaging of the process.
18. In support of subsection 20315(c).
19. Recommend and request keeping “surveillance video recordings” in the definition of “relevant materials” and added in “rosters/poll books.”
20. Recommend adding “and make public” to subsection 20353(c).
21. Suggest switching subsections 20355(b) and 20355(c) to be in chronological order. Subsection 20355(b)(1) is unnecessary since there is no (2) and suggest combining it with the rest of (b).
22. Suggest requiring that the “written security measures” in subsection 20357(a) be made publicly available.
23. Suggest adding in a 24-hour one-time reasonable grace period for obtaining payment before the recount process is deemed to be ended in section 20359.
24. Suggest requiring that the “written policy providing reasonable access to the recount” in subsection 20361(a) be made publicly available.
25. Suggest modifying the numbering in section 20362 to change (1) to (d), then (2) to (1), (3) to (2), (4) to (3), (and d) to (e).
26. In subsection 20370(d), should the reference to section 20816 be 20356?

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. The suggested amendment was not made to the proposed regulations. In Elections Code 15260, elections return centers are established for the purpose of facilitating the compilation of election returns and expediting their announcement to the public. In Elections Code 15261, elections counting centers are established for the purpose of counting ballots. When conducting a manual tally, the ballots will need to be counted and the results will need to be compiled at the same location(s). In the proposed regulations the term “central return location” was intentionally used because it covers the requirements of a counting center and a return center.
2. Section 20298(a) was not amended to include a subsection 20298(a)(4) stating that counting of the ballots can be conducted at a precinct location. This change was not made because Section 20298(b)(1) states that ballots shall not be tallied at a voting location, except for manual tallies

conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct.

3. The suggested amendment to subsection 20298(b)(1) was not made to the proposed regulations. As stated in response 1 above, the term “central return location” was intentionally used in the regulations to cover the counting of ballots and compilation of result during the conduct of manual tally.

4. This suggested change was made to the proposed regulations. This was a clerical error made when drafting the proposed regulations.

5. This suggested change was made to the proposed regulations. This was a clerical error made when drafting the proposed regulations.

6. The suggested amendment was not made to section 20299 of the proposed regulations. When drafting the regulations, the order of subsections 20299 were intentionally listed in the drafted order. It made logical sense to list the timeline and submittal process for the manual tally plan prior to listing the requirements of the manual tally plan.

7. This suggested amendment was made to section 20299(e)(1) of the proposed regulations. The requirement to post the manual tally plan in a conspicuous place at the elections office and on the elections official’s public website was amended to add that the plan shall be posted within 5 calendar days of the Secretary of State’s approval. This amendment provides more transparency in the manual tally process for the public.

8. This suggested amendment was not made to section 20299 of the proposed regulations. Upon reviewing the proposed regulations, a reordering of subsections 20299(e)(2) and 20299(e)(3) would not affect the chronological order of events.

9. Parts of the suggested amendments were made to the proposed regulations. Section 20299 was included in the proposed regulations to establish the requirement of any elections official that is to conduct a manual tally of all their ballots to submit a manual tally plan to the Secretary of State for their approval or rejection. Under the California Government Code section 12172.5, the Secretary of State is authorized to request reports or plans from elections officials to ensure that elections are efficiently conducted, and that state and federal election laws are enforced.

Subsection 20299(f)(7)(B) was amended based on the submitted comment and a public comment submitted during the public hearing. The language to have “A scale diagram depicting” was removed from the subsection, leaving the requirement to include the planned setup of the manual tally location in the manual tally plan. During the public hearing, the concern was brought up that by requiring a scaled diagram, jurisdictions would need to hire a professional, such as an engineer or architect. The removal of this language is to provide clarity that jurisdictions only need to provide the planned setup of the manual tally location(s) in the manual tally plan.

10. The requirement to have a counting board for each contest on the ballot is based upon Elections Code section 15102, which states that “when the tally is done by hand, there shall be no less than four persons for each office or proposition to be counted.” This requirement was

included in the proposed regulations to be consistent with state law, therefore the suggested amendment was not made.

11. This suggested amendment was made to the proposed regulations in sections 20301(a)(3) and 20303(m)(6)(B). Section 20301(a)(3) was amended to include the requirement of recording the ballot stack number on the manual tally form. Section was amended to include further clarification on the process of the counting board and counting board supervisor when correcting and documenting a discrepancy. Both of these amendments were included in the proposed regulations to maintain the chain of custody and make sure that the exact manual tally forms can be correctly matched to the assigned stack of ballots/round of counting.

12. This suggested amendment was made to the proposed regulations in section 20306(c)(4). Section 20306(c)(4) was amended to remove the terms “Democratic and Republican” from the text of proposed regulations and add in the phrase “all qualified political parties”. This modification is necessary to ensure that all qualified political party presidential candidate results are reported to the Secretary of State during the semiofficial and official canvass as well as comply with state law.

13. This suggested amendment was made to section 20306(d). This amendment was to fix a grammatical error. A comma was mistakenly in a place in which a period should have been used. This is a non-substantive change.

14. Section 20307 is a necessary section in the proposed regulations and was not removed. Current statute does not provide clear guidance on how observations are to be conducted both from a voter and elections official standpoint. There are currently proposed regulations under review with the Office of Administrative Law on Election Observation Rights and Responsibilities, however it is unknown if/when these regulations might be adopted. Section 20307 has been proposed to outline guidance for observation of a manual tally and aligns with the currently proposed regulations, that if adopted, would comply with state law.

15. This suggested amendment was made to section 20307(b). Section 20307(b) was modified to clarify that the elections official has the authority to require election observers to wear identification badges. This modification was made to clarify the authority and discretion of the elections official to require election observers to wear identification badges when accessing the location(s) in which the manual tally is conducted. Identification badges worn by both staff and observers is a good practice for maintaining the security of the elections process. Badges assist the elections official with clearly identifying which individuals are authorized to enter certain areas, handle ballots, and participate in the conduct of the manual tally, versus individuals who are only present to observe.

16. This suggested amendment was not made to the proposed regulations because the requirement to publicly post the notice of the one percent manual tally at least five days prior to the selection of ballots and one percent manual tally was pulled directly from Elections Code section 15360(e).

17. This suggested amendment was not made to the proposed regulations. When drafting the proposed regulations, the Secretary of State did not deem it necessary to draft regulations pertaining to how to conduct "step-by-step" one percent manual tally, since the one percent manual tally process is not a new process and elections officials have years of experience conducting a one percent manual tally audit since it is required by Elections Code section 15360 after every election in which a certified voting system is used to tabulate election results.

18. This comment does not request addition or amendment but is a note of appreciation of the requirement to publish the one percent manual tally reports on the Secretary of State's website. No response is needed, however the Secretary of State acknowledges and appreciates this comment.

19. These suggested amendments were not made to the proposed regulations. The proposed change for the removal of "surveillance video recordings" was made because modern voting systems have become much more complex over the years as technology has evolved and voter privacy could be violated if the public was able to examine surveillance video recordings of the voting locations. As such, each of the items proposed for removal from the relevant material definition meets the criteria of sensitive, and/or proprietary, and/or pose security threats to voting technology infrastructure. Additionally, the inclusion of paper and pollbook rosters were not included in the regulations because Elections Code sections 2183 and 14223 allow for the rosters to be provided by the elections official and inspected by the public.

20. This suggested amendment was made to the proposed regulations. Section 20353(c) was modified to include the requirement that the elections official shall make public the reasonable guidelines for examination of relevant materials on their website. This amendment provides more transparency in the recount process for the public.

21. This suggested amendment was not made to the proposed regulations. The Secretary of State appreciates this comment, however the order of subsections in the proposed regulations do not need to be in chronological order for the requirements to be understood and met. Therefore, the Secretary of State felt that this was not a necessary change to make to the proposed regulations.

22. This suggested amendment was not made to the proposed regulations. Section 20357 requires the elections official to develop and maintain written security measures for conducting a recount. Public disclosure of the security measures may present a security risk, as there may be content of a sensitive nature, which could impact the security, accuracy or integrity of the recount. Therefore, the Secretary of State did not deem it necessary to have the elections official post the develop written security measures.

23. This suggested amendment was not made to the proposed regulations. The request to amend the regulation to add a 24-hour one time grace period expressly conflicts with California Elections Code section 15624, which establishes that deposits must be provided to the elections official before the recount begins and at the beginning of each following day.

Additionally, California Elections Code section 15626 provides that once commenced the recount shall continue daily for not less than six hours each day until completed. Any grace

period provided to the requestor for the purpose of securing payment once the recount has commenced would require the elections official to either: (1) continue recounting during the grace period and essentially gift public funds, which could be a violation of the Political Reform Act, or (2) stop recounting during the grace period and be out of compliance with law.

Under existing law, campaigns and other persons requesting a recount have a period of up to 12 days in which to prepare finances, secure checks for the first days of the recount and plan for the timing of future payments. This timeframe includes the 5 days after certification in which the request is made and the additional 7 days in which the county prepares for the commencement of recount activities, per California Elections Code section 15620 and 15626 respectively.

24. This suggested amendment was made to the proposed regulations. Section 20361(a) was modified to include the requirement that the elections official shall make public the written policy for providing reasonable access to the recount location. This amendment provides more transparency in the recount process for the public.

25. This suggested amendment was not made to the proposed regulations. The Secretary of State appreciates this comment, however the reordering the subsections in the proposed regulations do not affect the ability to understand and met the outlined requirements. Therefore, the Secretary of State felt that this was not a necessary change to make to the proposed regulations.

26. The suggested amendment was made to the proposed regulation. Section 20370(d) was modified to fix a clerical error. In the previous proposed regulation text, section 20816 referenced in the subsection. However, the correct section number should have been 20356 to properly account for the proposed renumbering of sections in the proposed regulation text. This is a non-substantive change.

Comment No. 15: In opposition to the proposed regulation. (Arlene DiJulio)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 16: Section 20298(b)(1) should specifically state that manual tallies of ballots can occur at either a polling site or a central location. Section 20299 should be removed or amended to state that the governing body of a county is the only authority to approve the plan to conduct a manual tally. (Pearl Boelter)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Section 20298(b)(1) states that a manual tally shall be conducted at a county designated central return location(s) pursuant to Elections Code sections 15260 and 15261. Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct.

Government Code section 12172.5 authorizes the Secretary of State to require elections officers to make reports concerning elections in their jurisdictions. The Secretary of State has historically requested plans and reports from elections officials to coordinate the implementation and conduct of elections.

Under Elections Code section 10, the Secretary of State is the chief elections official for the state and oversees all statewide elections and under Government Code section 12172.5 has the express authority to adopt regulations to “ensure the uniform application and administration of state election laws.” The governing body of a jurisdiction oversees all local elections. Commenter provides no specific authority to support the claim that the governing body of a county is the only authority to “approve the plan to conduct a manual tally.” The Elections Code provides the rules by which a county must conduct an election.

Comment No. 17: The commentor submitted thirteen comments on the proposed regulations. Below is a summary of each comment/ recommendation. (Kim Alexander representing The California Voter Foundation, Verified Voting Foundation, The Brennan Center for Justice at New York University School of Law, and California Common Cause)

1. In support of the requirement of counties to report the results of their post-election audits and for these reports to be published on the Secretary of State's website in the proposed regulations.
2. In support of the requirement of counties to explain any discrepancies encountered during the post-election audit and how they were resolved in the proposed regulations.
3. Request that the Secretary of State commit to revisiting these regulations in the near future and provide additional time and opportunity for public engagement, especially if Assembly Bill 969 passes.
4. Recommend the inclusion of the requirement for the manual tally plan to include a ballot reconciliation process detailing how election officials will keep track of each ballot printed or issued to each voter, throughout the elections process including prior to voting, during voting, and at the end of voting.
5. Recommend that the definition of “chain of custody” from the National Institute of Standards and Technology (NIST) be added into the proposed regulations to help increase public confidence in the vote counting process.
6. In support of the process to manually examine paper ballots to verify software vote counts and in support of the proposed regulations, however, have deep concerns about relying completely on hand counting all ballots in any but the smallest counties. Cited multiple instances in the United States in which the hand counting of ballots were not accurate, could not be completed in a timely manner, were difficult to coordinate, and cost the jurisdiction more in money, time and accuracy.
7. Propose the following edits to section 20299:
 - 7a. In (a), require a county conducting a manual tally to make its plan available to the public at the same time it is submitted to the Secretary of State.

7b. In (a), provide an exception to the 120-day submission requirement in the case of a special or recall election.

7c. In (c)(2), change the wording from “the provided requirements lack sufficient detail to fully describe each element” to “the provided requirements fail to fully describe each element.”

7d. In (c)(4), change the wording from “The Manual Tally Plan is insufficient to ensure that the elections official will be able to comply with state or federal law” to “The Manual Tally Plan fails to ensure that the elections official will be able to fully comply with state or federal law.”

7e. In (e)(1), require the Manual Tally Plan to be posted in the elections office at least one week in advance of Election Day.

7f. In (e)(1), strike the “if available” language regarding county election websites (every county has a website).

7g. In (e)(2), require status updates to the Secretary of State to be posted in the elections office and on the county’s election website.

7h. In (e)(2), require that the status updates to the Secretary of State include updates on the hiring status of personnel needed to conduct the manual tally.

7i. In (f)(5), require the plan to include the specific number of personnel required for each function in the manual tally process.

7j. In (f)(10), require the plan’s description of how it will work in conjunction with the use of a voting system to include the imaging of each ballot and adding a serial number to each ballot.

8. In support of provisions (a)(1) and (a)(2) for requiring that serial numbers be added to the ballots and the ballot images captured prior to the manual tally. Propose the following edits to section 20303:

8a. Specify in the proposed regulations when and how ballot adjudication will occur in the manual tally process, prior to the tallying of ballots.

8b. In (i), specify that “the election official shall use the process described in the manual tally plan to review and resolve the discrepancy”.

8c. In (l)(2), specify ballots “shall be resecured per (a)(5)(A) above”.

9. In section 20304, add in specification on how the cumulating boards will accurately tabulate the results from the counting boards without the use of Microsoft excel or a calculator. This should also be a requirement in the Manual Tally Plan under section 20299. Provide clarity if the certified voting system could be used as a adding machine or if an open-source calculator could be used with guidance from the state and vendors.

10. In support of provision (a) for requiring a certified voting system tabulator be used to verify the accuracy of the manually tallied vote totals. In support of provision (b) for outlining the steps required if the manual tally plan is revoked or if plan’s completion is determined infeasible.

11. Amend section 20307 to include a provision that enables the public to check the accuracy of the cumulating board's work by requiring counties conducting manual tallies to provide the counting board's vote counts on their website so that the public can verify the cumulating board is properly totaling the vote counts.

12. Remove subsections (b)(2)(A) and (b)(2)(B), which permit the use of Microsoft Excel or other software to generate random numbers. Microsoft Excel is proprietary software and is not subject to State testing or certification and therefore should not be allowed. The methods described in subsections (a)(1) and (a)(2)(B) allow for a more transparent and less susceptible to manipulation method of selecting ballots, however, they do not provide a way to assure all precincts have an equal chance of being selected. Provided an attached appendix which provides more detail on how to import the methods outlined in (a)(1) and (a)(2)(B) could be improved.

Method (1), which is outline in section 20313(a)(1), is a valid method however observers may struggle to verify that all the labels are correct and the selection is fair.

Method (2), which is outline in section 20313(a)(2)(B), is a valid concept, but each of the four proposed implementations have issues. Options A and D rely on "random" number functions in a spreadsheet program or some random number generator. These options do not allow an opportunity for the observers to verify that the random sample is fairly generated. Options B and C use a 10 sided die or equivalent slips of paper to generate one digit at a time of a random number. These methods are inadmissible because they do not provide an equal probability of selection. By using a 10 sided die, the precinct selected is more likely to be 1 through 99 or 100 through 123. This means that the higher-numbered precincts are about four times as likely to be selected as the lower-numbered precincts.

A proposed method for ballot selection is to have the elections official create a list of precincts and batches of ballots, sequentially number that list, then identify which item(s) to tally by one of the following methods;

- A. Choose a power of 10 that is larger than the total number of items listed. Divide that value by the total number of items and round down to obtain a divisor. Roll one or more 10 sided dice to generate one digit at a time of a random number. Divide the random number by the divisor, round down and add 1 to obtain the number on the items list to tally.
- B. Roll one or more 10 sided dice to obtain an item number.
- C. In the event that 10 sided dice are not available, use methods A and B above but with 10 identical objects labeled 0 through 9, that are repeatedly shuffled and selected one at a time to generate a random number.

13. In support of subsections 20315(a), 20315(b)(12), 20315(c).

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. This comment was in support of section 20315 of the proposed regulations. This comment is appreciated.
2. This comment was in support of section 20315, specifically subsection 20315(c)(12). This comment is appreciated.
3. This submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.
4. This submitted amendment was not made to the proposed regulations. Elections officials already have reconciliation procedures and processes in place to keep track of each ballot issued and returned. These procedures are in place throughout the election process, not just during the tabulation phase. The Secretary of State therefore felt it was unnecessary to include the stipulation that elections officials include a reconciliation process to track ballots if they are already having to provide a detailed description on how they will maintain the chain of custody for all manual tally materials, which includes ballots, manual tally forms, and cumulating board forms.
5. This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates the suggestion, it was not seen as unnecessary based on the currently available and used definitions and practices present in the election community. The Secretary of State strives to keep policy and procedures aligned with statute and best practices and will evaluate the need for amendments in the future.
6. The submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.
- 7a. This suggested amendment was not made to the proposed regulations. At the time of submittal to the Secretary of State, the manual tally plan would not be approved and could potentially require amendments to meet the requirements of subsection 20299(f) and state and federal law. Therefore, posting a plan that has not been approved and could potentially require more edits and reposting would create duplication of work on the elections official. In section 20299(e)(1), the elections official is required to post the approved manual tally plan in a conspicuous place that the office of the elections official, the location(s) of the manual tally, and on the elections official's website, within 5 calendar days of approval from the Secretary of State. This requirement was added into the proposed regulations to provide a reasonable amount of time for the elections official to provide the approved manual tally plan to the public, which further promotes transparency and public engagement with the elections process.
- 7b. This submitted amendment was not made to the proposed regulations. Section 20299(a) and 20299(b) were modified to update the 120-day submission deadline to 80-days prior to the election and the 90-review period deadline to 70-days prior to the election. This modification was necessary because elections officials are still completing candidate filing 88-days prior to an

election and would not have sufficient information about the election to properly and fully develop the manual tally plan.

The Secretary of State appreciates this comment; however, the amendment was not made because an exception is not always necessary for a special or recall election, due to the fact the date in which an election is called can vary.

7c. The submitted amendment was not made to the proposed regulations. While the Secretary of State appreciates this suggestion, the proposed wording is essentially the same as the current proposed text and would be an unnecessary change.

7d. The submitted amendment was not made to the proposed regulations. While the Secretary of State appreciates this suggestion, the proposed wording is essentially the same as the current proposed text and would be an unnecessary change.

7e. This submitted comment is similar to another comment received, to which an amendment to the proposed text was made. Section 20299(e)(1) was amended to include the clarification that the elections official shall post the approved manual tally plan on their website within 5 calendar days of the Secretary of State's approval. This is a necessary change to provide transparency and public access to information on the process as to how and when the manual tally will occur.

7f. This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion, however the inclusion of the language "if available" covers any jurisdiction or election official looking to conduct a full manual tally of their votes. While every county in California has a publicly available elections website for the public, this may not be true for every city or smaller local jurisdiction. Therefore, the language "if available" allows for the inclusion and flexibility to all jurisdictions looking to implement a full manual tally.

7g. This suggested amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion; however, the Secretary of State does not want to limit the means in which the elections official provides a status update for the implementation of the Manual Tally Plan. An election official could choose to provide an update to the Secretary of State verbally, via an in-person and virtual meeting. While the Secretary of State is requiring regular check-ins with the elections official to ensure the manual tally plan is being implemented on time, requiring the elections officials to post each check in would pull resources away from the actual implementation of the manual tally plan.

7h. This suggested amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion, however, the status updates to the Secretary of State required by subsection 20299(e)(2) includes a status update on all components of the Manual Tally Plan as it is being implemented, including the status on hiring personnel needed to conduct the manual tally. Therefore, the Secretary of State felt it was unnecessary to include a requirement this specific requirement in subsection 20299(e)(2).

7i. This suggested amendment was not made to the proposed regulations. Section 20299(f)(5) requires that the elections official include in the manual tally plan the total number of counting boards, supervisors, cumulating boards, and any other assigned staff that will be required to

complete the manual tally accurately, timely, and securely. The total number shall include sufficient back-up staff to account for unknowns or uncertainties. Based on subsection 20299(f)(5), the Secretary of State feels that this suggestion is already met.

7j. This suggested amendment was not made to the proposed regulations. Section 20299(f)(8) requires that the elections official include in the manual tally plan a detailed description of the process to prepare the ballots for counting, including but not limited to the sequential serial numbering of ballots and capturing of ballot images. This requirement in conjunction with section 20299(f)(10), covers the use of a voting system to serialize ballots and capturing ballot images.

8. This comment was in support of subsections 20303(a)(1) and 20303(a)(2). This comment is appreciated.

8a. This suggested amendment was not made in the proposed regulations. While the Secretary of State appreciates this suggestion, the adjudication process is ongoing throughout the counting of ballots and cannot be dictated or held to a specific time or date. Therefore, this is not a feasible requirement to include in the proposed regulations.

8b. This suggested amendment was not made in the proposed regulations. Section 20299(f)(15) requires the elections official to submit a detailed description of the procedures and plan for resolving issues or discrepancies during the manual tally. Section 20303(i) states that the elections official shall have a process in place to review and resolve a discrepancy in the manual tally. If the Manual Tally Plan is approved, it is expected to be followed as approved and in compliance with all applicable local, state, and federal law, including these regulations.

8c. This suggested amendment was not made in the proposed regulations. The Secretary of State felt that it was an unnecessary amendment for it is implied by the term “resecured” that the ballots will be secured in the same manner in which they were distributed to the counting board.

9. This suggested amendment was not made in the proposed regulations. The Secretary of State appreciates the suggestion, but Section 20304 states that the cumulating board can compile the results of the manual tally by hand without the use of mechanical, electromechanical, or electronic system or with the use of any mechanical, electromechanical, or electronic system that has been conditionally approved or certified by the Secretary of State. Section 20299 states that the elections official shall include a detailed description of how the manual tally will be conducted to meet the deadlines set forth in these requirements and the Elections Code, which includes the method in which the cumulating board will use to total the manual tally results. Under sections 20299(a) the elections official is required to submit the manual tally plan for review and approval to the Secretary of State.

10. This comment was in support of section 20305, specifically subsections 20305(a) and 20305(b). This comment is appreciated.

11. This suggested amendment was not made in the proposed regulations. Members of the public are provided the opportunity to observe the manual tally process pursuant to Section 20307. Additionally, elections officials are required to post results.

12. These submitted amendments were not made to the proposed regulations. The proposed regulations provide multiple options to generate random numbers, as not all elections officials have access to the same resources. While the Secretary of State appreciates these submitted comments, the outlined processes provide uniform guidance on how to randomly select numbers for the one percent manual tally while allowing for flexibility on the method used.

13. This comment was in support of subsections 20315(a), 20315(b)(12), 20315(c). This comment is appreciated.

Comment No. 18: Shasta County is in the midst of significant local political upheaval. Write in gratitude regarding the proposed regulations for hand counting at scale is a process fraught with the possibilities of inaccuracy, tampering, and fraud. It is necessary to have extensive and thoughtfully considered rules and procedures for hand counting to maximize accuracy.

Request more flexibility in connection to certain processes for in some instances the detailed instructions call for change in existing procedures and would be difficult to implement. Below are specific comments and requests to sections of the proposed regulations:

Section 20303(f) requires the use of a single table. In Shasta County, two tables are used together to create a counting area. In this section, express more of a substantive goal, rather than a specific numerical requirement.

Allow for more flexibility in sections 20303(j), 20303(m)(2)(A), 20303(m)(2)(B), 20303(m)(4), and 20303(n)(3). Furthermore, expand upon section 20282(g) to clarify the exact method to use when processing write-in votes to establish clear expectations and uniformity across counties. Additionally, section 20299 should be expanded to include instruction on how ballots are adjudicated during the manual tally and the development of a security plan.

Section 20304(b)(2) should be amended to allow vote total data to be entered into a certified voting system but the cumulating board using the reporting utilities.

Sections 20298(e) and 20303(c) are difficult to follow without a definition of chain of custody, therefore one should be added to the proposed regulations.

Section 20299(a) timeline should be amended because the currently proposed 120-day deadline is challenging because the elections official will not know what contest are on the ballot until 88 days prior to the election. Ideally, the manual tally plan could be amended by the elections official to account for unanticipated circumstances that may occur leading up to the election.

(Cathy Darling Allen)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

Section 20303(f) was amended to remove the numerical requirement of one table and a 10-foot distance between counting tables. This amendment is intended to allow for more flexibility in the

planning and implementation for the election's official with the selection and setup of central return locations.

Section 20303(j) was amended to state that unless otherwise directed by the elections official, as the elections official is ultimately responsible for the conduct of the election and should have the final determination in resolving discrepancies.

Section 20303(m)(2)(A) and 20303(m)(2)(B) were not amended in the proposed regulations. These subsections established that the tally keepers are to record the votes on the manual tally form and the process for keeping the tabulation either through hashmarks or placing a slash through a numbered tally box. It also establishes that once the counting board has tallied one contest, the tally keepers must verify that the total number of votes for each candidate or ballot measure match, prior to moving onto the next contest. This is necessary to ensure complete ballot accounting and accuracy of the tally.

Section 20303(m)(4) was not amended in the proposed regulations. This subsection establishes that if a tally keeper makes a mistake the counting stops, the supervisor is notified, the supervisor documents the error(s) on the voided forms and provides new forms for the counting board to start the manual tally over. All manual tally forms, including voided forms, shall be kept together with the stack of ballots. This is necessary to ensure complete ballot accounting, document the process, maintain chain of custody and ensure the accuracy of the tally.

Section 20303(n)(3) was modified to provide the elections official with more flexibility in establishing the procedures for collecting all of the ballots, manual tally forms, and writing devices for the manual tally upon conclusion. This is a necessary requirement to ensure complete ballot accounting, documentation of the process, maintenance of the chain of custody and accuracy of the tally. Additionally, the elections official is charged with developing the manual tally plan, including how they will maintain the chain of custody of all materials. This step in the manual tally process falls under their duties for developing a collection system that fits their county and voting processes and procedures.

Section 20282(g) was not amended in the proposed regulations. In subsection 20282(g), Elections Code section 14420, 15342, and 15342.5 are referenced for processing write-in votes. These Elections Code sections provide direction on how to process write-votes. The Secretary of State determined it was not necessary at this time to establish further instructions on how to process write-in votes.

Section 20299 was not modified to include instructions on how to adjudicate ballots during the manual tally process. Elections officials already have adjudication procedures in place and Secretary of State determined it was not necessary at this time to establish further instructions on how to adjudicate ballots.

Section 20304(b)(2) was not amended in the proposed regulations. Section 20304(b)(2) states that a cumulating board can use a mechanical, electrotechnical, or electronic system and its software or any combination of these, that has been conditionally approved or certified by Secretary of State pursuant to Elections Code sections 362 and 19202.

This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates the suggestion, it was not seen as a necessity at this time to include a “chain of custody” definition on these proposed regulations based on the currently available and used definitions present in the election's community. The Secretary of State strives to keep policy and procedures aligned with statute and best practices and will evaluate the need for amendments in the future.

Section 20299(a) outlines the requirements for submission of the manual tally plan to the Secretary of State. This section is necessary to provide the elections official with clear requirements regarding the timeline for submission and the approval or rejection of the manual plan. Section 20299 was amended to adjust the submission timeline of the manual tally plan and require the Secretary of State to provide a list of written deficiencies when rejecting the plan. The timeline for submission was adjusted from 120 calendar days to 80 calendar days prior to the date of the election and the deadline timeline was adjusted from 90 calendar days to 70 calendars days prior to the date of the election. The adjustment to the timeline was necessary to provide the elections officials with sufficient time to develop the manual tally plan prior to conducting an election.

Comment No. 19: Strongly support the implementation of the proposed regulations. (Frank Treadway)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 20: The proposed regulations are crucial to voting systems and the accuracy, security, and transparency of the hand counting process. (Kathryn Chase-Dunn)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 21: Enraged by the Board of Supervisors decision in Shasta County to terminate the Dominion voting system contract. In support of Shasta County’s ROV ability to conduct Shasta County’s elections in compliance with state law. Appreciates any support given by the State. (Barbara Stone)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 22: In support and agreement with the proposed regulations. (Mary Speigle)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 23: Longtime registered voter in Shasta County. Shasta County is currently disenfranchised by three Board of Supervisors who voted to cancel the county's Dominion voting system contract and faces a challenging group of election deniers who have lobbied for years for the replacement of voting systems with hand counting. Shasta County's election officials have spent countless hours trying to create a system and process for counting ballots, only to face more challenges from the Board of Supervisors, whose decision to require hand counting will cost the county millions of dollars to implement. The state must protect the election integrity and set up standards for hand counting of ballots including the vetting of individuals participating in the counting of ballots, while maintaining the security and accuracy of hand counting. Hand counting has been used in the past for auditing of the Dominion System, so an alternative method will be needed to audit the accuracy of the hand counting. (Pam Hughes)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 24: None of the far-fetched claims in opposition to machine ballot counting is true and allowing hand counting on a large scale will be costly and a mistake. Continue to require the use of approved machine counting systems to avoid fraud and counting errors. (Mike Evans)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 25: In support of the proposed regulations. Shasta County is in a dire situation and the proposed regulations allow the use of a certified voting system. (Judy Salter)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 26: A citizen of Shasta County in opposition to hand counting system. It is a ludicrous idea that hand counting is a better system than the current system, which is efficient and accurate. The hand counting system will open the elections up to more fraud and will not be completed in a timely manner. If the entire state or nation moved to hand counting it would lead to chaos and delay the outcome of elections. Keep the current electronic system in place. (Case Blanken)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 27: In support of the bill discussed on Monday, July 3, 2023, at 10am. Appalled by the actions and decisions of the Shasta Board of Supervisors and has complete faith in the experience and intelligence of Shasta County's ROV, Cathy Darling Allen. (Nancy Milton)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 28: Please pass the legislation that limits hand counting ballots to small elections in limited conditions. A resident of Shasta County, where the Board of Supervisors is wasting taxpayer's money by experimenting with hand counting. (Sue Morehouse)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 29: The Shasta County Board of Supervisors have order the county ROV, Cathy Darling Allen, to cancel the Dominion voting system contract and implement hand counting for future elections. Ms. Allen is trying to comply and devise a plan to implement hand counting in a manner that will be accurate, efficient, and transparent. State mandated hand counting regulations will support Ms. Allen's efforts and it is requested that the State help keep Shasta County's voters from being disenfranchised. (Judith Suzanne Smith)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 30: In support of the proposed regulations. A resident of Shasta County which is struggling with the decision made by the County Board of Supervisors. There is a need for accuracy and transparency in hand counting ballots in the upcoming elections. (Charlie Nelson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 31: Strongly urge that the proposed regulations are necessary for guidance in on the hand counting of ballots. Leading an effort to recall the swing vote of the Shasta County Board of Supervisors and find it imperative that these guidelines be in place to ensure that

citizens of any county vote in fair, transparent and accurate elections. An increasing number of citizens are becoming more terrified that the voting system is in shambles and the March primary is in jeopardy. Confidence needs to be restored in the machine tally. The sane and reasonable residents in Shasta need help and have not received any from the state government. (Dana Silberstein)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 32: The Shasta Board of Supervisors has order Shasta County ROV, Cathy Darling Allen, who is highly respected for her experience and diligence to Shasta's elections, to hand county ballots and cancel the Dominion voting system contract. It is entirely possible that Shasta County will not be able to hand count all the ballots in a timely manner and therefore not be certified in compliance with state law. This in an alarming potential outcome in addition to the considerable expense of the experiment to hand count ballots. Please help keep the voters of Shasta County for being disenfranchised. (Randall R. Smith)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 33: A resident of Shasta County, which has just lost the secure voting system due to the decision made by the County Board of Supervisors to cancel the Dominion voting system contract. It is important that the developed hand counting system be controlled by regulations to ensure that the hand counting process is accurate, secure and transparent. The individuals who count the vote must be vetted and cannot just be volunteers. There is a lack of trust in the Board of Supervisors in Shasta County and the outside influencers. In support of Shasta County ROV Cathy Darling Allen and the Secretary of State for making sure that hand counting is secure and strict. (Mary Cuenca)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 34: Resident of Shasta County and a part of the movement to recall Kevin Crye from the Board of Supervisors in Shasta County in response to his vote to cancel the Dominion voting system contract and only use hand counting. The proposed regulations must be adopted otherwise there will never be confidence in the outcome of any future election in Shasta County. (Eric Silberstein)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 35: A resident of Shasta County with great concern over the decision to move towards hand counting ballots. This is a step backwards and the county needs to be held to the standard of accuracy and accountability which hand counting will not adhere to. (Janet Chapman)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 36: In support of the proposed regulations. It is essential that the regulations be followed to the letter regardless of certain opinions expressed by members of the Board of Supervisors. In support of Shasta County's ROV, Cathy Darling Allen, and her authority to conduct Shasta's elections. (John M. Kimple)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 37: The recent decision from the Shasta Board of Supervisors has left Shasta County with the option of hand counting. Based on recent politically motivated decision, the hand counting process needs to be regulated so that the systems can be both fair and transparent. Please support Shasta County's ROV, Cathy Darling Allen and the citizens in Shasta by ensuring a fair and defensible system. (Natalie Elliott Larson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 38: Registered voter in Shasta County, which has been put in a terrible position of having to hand count the vote. If Shasta County cannot get the voting machines back, then the hand counting process needs to be accurate, secure and transparent. (Lynne Wonacott)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 39: Resident of Shasta County for fifty years and is deeply concerned by the recent decision made by the Shasta County Board of Supervisors to hand count ballots. This decision is wrong, expensive, unreliable and undermines the idea of our accurate voting rights. (Robyne Hartman)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 40: Please ensure that Shasta County has fair and secure counting of the ballots. It is concerning that the Shasta County Board of Supervisors has made the decision to remove the Dominion voting machine, without a plan to make certain the votes are properly counted. This decision appears to have been made to benefit a political agenda. Please help secure a valid count of the votes in Shasta County and make sure that Shasta voters keep adequate access to voting. There is concern that the Board of Supervisors will try to limit mail-in ballots, early voting, the number of polling place, the hours of voting, etc. (Misty T. Price)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No 41: Have lost our voting machines and need regulations and guidelines to keep the hand counting accurate, transparent and orderly. There is concern that the hand counting process will provide opportunity for inaccuracy and fraud by political groups. Ms. Darling Allen needs to be provided with tools and support to safeguard our elections. (Mary Doty)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No 42: Resident of Shasta County and disgusted by the current Shasta County Board of Supervisors, Jones, Crye, and Kelstrom. Oversight is needed at the Board of Supervisors meeting and the decision to get rid of the voting system was without merit. In support of Shasta County's ROV, Cathy Darling Allen, and her team. The hand counting process needs to have accuracy and transparency. (Sally Kinsey)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 43: Extremely worried and in opposition to the Shasta County Board of Supervisors decision to remove the Dominion voting system. In support of Shasta County's ROV, Cathy Darling Allen, and the proposed regulations. (Scott K. Halsey)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 44: A resident and citizen of Shasta County. In support of the proposed regulations. The regulations are needed to ensure an accurate count of votes. (Linda Salter)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 45: We do need regulations regarding hand counting. We need security and accuracy for all voting. (Belinda and Gary Sanda)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 46: Resident of Shasta County and if there is hand counting of ballots it needs oversight, transparency, and security in the process. If Shasta County does go to hand counting there must be a way to guarantee the safety of the counters and the accuracy of the count. (Linda Robathan)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 47: In support of the proposed regulations. (Alice Montgomery)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 48: Resident of Shasta County since 1989 and concerned that the vote is counted fairly. Hand counting is a difficult process. In support of clear and strict regulations and oversight to the hand counting process. (Margaret Rooker)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 49: The decision made by the Shasta County Board of Supervisors has cost Shasta voters untold thousands to eliminate the voting system contract without having honest, and transparent hand counting procedures in place. Need to keep voting honest, transparent, and effective. Need nonpartisan control over the elections. (Jennifer Levens)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 50: Urge the Secretary of State to support regulations that will ensure accuracy, security, and transparency of any and all hand counting of ballots implemented in the state of California. Personally overheard plans from individuals who believe voting machines to be inaccurate, to fill the ranks of hand counters with people friendly to their cause and willing to do their part to introduce fraud into elections. This is a real threat and the only way to address it is by implementing clear and strict rules and procedures. (Ann Mobley)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 51: Registered voter in Shasta County. Concerns over the conflict of politics in Shasta County and the Board of Supervisors. (Judy Johnson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 52: The Secretary of State must be receiving a multitude of letters, emails and calls concerning the proposed legislation concerning hand counting of ballots. A small but vocal group in Shasta County, including members of the Board of Supervisors, whose beliefs that hand counting is accurate and timely, are based on disproved allegations of voter fraud and a fundamental misunderstanding of the complex voting tabulation system used by Shasta County. Respectfully request that the method used to count votes be based on a time tested and unbiased procedure. Please impose limits on hand counting of ballots by only vetted, paid, county employees who have been properly trained and only in counties where the number of ballots can be accurately recorded and reported in a timely manner. (Lawrence P. Johnson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 53: Registered voter in Shasta County. Appalled by the Shasta County Board of Supervisors' (Crye, Jones, and Kelstrom) decision to cancel the Dominion voting system contract without having a reliable counting system in place. Would prefer to have the vote counted by machine but is in support of the proposed regulations. It is essential that there is accuracy, security, and transparency in the process of hand counting the ballots. Standards and

regulations are needed to ensure that the vote is fairly counted and cannot be manipulated. (Irene Salter)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 54: In support of the proposed regulations. (Martha Hamon)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 55: Resident of Shasta County. If Shasta County cannot get the dependable, accurate, and economical electronic tabulators back, please ensure that the hand counting process is regulated and nonpartisan. Does not trust the use of volunteers with political agendas. (Hollyn Chase)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 56: In support of the proposed regulations. Resident of Shasta County and fear the rampant deregulation and disappearance of civil rights in result of the Board of Supervisors' (Jones, Cyre, and Kelstrom) decision to eliminate the digital services to count votes and implement a deregulated process of hand counting that will open elections up to dishonest practices. Regulations are needed to provide accuracy, transparency, and security in the hand counting process. Please help Shasta County citizens keep their basic voting rights and ensure all votes are counted accurately. (Alice Porembski)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 57: Resident of Tehama County. Concerned regarding the decisions made by the Shasta County Board of Supervisors, which has had a wrecking ball effect on fair and effective elections systems. The proposed hand counting regulations are essential to protecting our free and fair elections. If the behavior seen in Shasta reaches Tehama, it is important that there is accurate and secure methods in place to buffer and protect voters fundamental rights. (Kathy Cole)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 58: Help Shasta County as the Board of Supervisors make rouge decisions, such as the removal of the Dominion voting systems and the implementation of hand counting ballots. Distrust in the Board of Supervisors and their ability to make decisions and abide by the rules and regulations. They are a threat to democracy and there is a need to ensure that the hand counting process is accurate and secure. (Steven DiPaolo)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 59: Long time residents of Shasta County and dismayed by the Board of Supervisors' decisions to remove the Dominion voting system with no viable alternative plan in place and implement a hand counting system that is slower, less efficient, less accurate, and more susceptible to fraud than the former Dominion voting system, which preformed efficiently and accurately. Concern that in a county with over 111,000 registered voters, paired with the complexity of ballots, will lead to a severe and negative impact on the security, transparency, and accuracy of voting. Urge that the State's regulations be followed and that Shasta County's misguided hand counting proposal be superseded by a requirement to adhere to existing protocols to ensure free, fair and accurate elections. (Richard Christoph and Theresa Moravec)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 60: In support of the proposed regulations. Need to feel secure in any voting results that they have been properly and honestly counted. (Veronica Schauer)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 61: Per existing law the local counties have full authority to conduct an all-manual tally in the precincts where votes are cast. The Secretary of State has no legal jurisdiction to change or interfere with this power solely given as a discretionary choice by the counties. Requiring a Manual Tally Plan creates a burden and potential obfuscation of duties with time delays that may be weaponized to take away the will of the county and the citizens they represent. The use of machines is not more cost effective or accurate. Counting by hand creates more confidence in the voting process. Chain of custody is lost when mail in ballots, drop boxes, and central counting moved the vote away from the place in which the vote was cast. There is a

need to return to paper ballots cast in precincts and counted by hand, which is more secure and ensures that the chain of custody and voter confidence. (Cheryl Frink)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The proposed regulation do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

In California, all voting is conducted using paper ballots or by certified voting systems that produce a paper ballot.

Comment No. 62: Registered voter of Shasta County who is deeply concerned about the irresponsible actions from the Board of Supervisors, which dismissed the use of electronic ballot counting in Shasta County and potentially throughout the State of California. There is no cohesive plan in place for the validation of hand counting the ballots and the State needs to take action and implement a set of standards and regulation to provide accuracy, security, and transparency for a hand counting process. In support of state implementation of such regulation. (Sandy Fecher)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 63: Registered voter of Shasta County. In support of the proposed regulations. The Secretary of State has the responsibility and obligation to ensure that all California jurisdictions have an accurate, secure, reliable, and transparent process for hand counting ballots. The proposed regulations provide that. (Sheila Hurst)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 64: Registered voter in Shasta County, which is currently under the control of three Board of Supervisors with extreme political ideals that are creating issues for Shasta County citizens. The Board of Supervisors' decision to cancel the Dominion voting system and embrace hand counting is outrageous. The Shasta County elections department under the direction of Cathy Darling Allen is one of the best run departments in the state and has the majority of the local voter's support and confidence. In support of the proposed regulations. A county the size of Shasta does not have the capacity to have a safe, secure, and accurate elections with a hand count system. After volunteering in 2020, was able to witness a secure and well documented, and professional elections process. (Patte Jelavich)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 65: Resident of Shasta County and do not believe that hand counting of the votes can be done in a fair and accurate way. In opposition to the removal of the Dominion voting system. In support of the proposed regulations. Need strict rules in place to ensure fair elections. (Susie Reeder)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 66: Please support the efforts of Shasta County's ROV, Cathy Darling Allen, when dealing with the hand counting of votes. There needs to be rules, regulations, and procedures in place for hand counting of ballots, because if not monitored instances of fraud could occur. (Mary Davis)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 67: In opposition to Assembly Bill 969, which is unconstitutional for it takes voting and political power away from voters and local government. Assemble Bill 969 is a power grab by the state, which thinks it knows best compared to the people. Assembly Bill 969 takes away a reliable and efficient method of hardcopy ballot check by replacing it with a system that can be electronically manipulated. The state shows, by eliminating voter's voices, that it has much to hide regarding the voting process and its blind reliance on machines and with internet. (Elizabeth Jouvenat)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 68: There is a critical need for regulations on hand counting because there is a greater margin of error than with machine counting. Insist upon accuracy, security and transparency. (Kathy Presley)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 69: Considering the underhanded politics that have occurred in Shasta County, I believe that security, integrity, transparency in upcoming elections is of utmost concern. (Judy Tarkington)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 70: In support of the proposed regulations. Need accuracy, security and transparency in the process of hand counting. (Susan Katherine Keller)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 71: Express concerns about Shasta County's move towards hand counting of ballots. The method of hand counting would risk errors, be inefficient and incur higher costs without added benefits. There are numerous studies in the U.S. in support of electronic voting systems. Shasta County's current electronic ballot system is believed to be secure, efficient, effective, and proven. Previous election outcomes were consistent with voting practices and moving to the new manual counting method is unlikely to change outcomes, but will be costly in time, energy, and expense. Please support electronic voting methods for Shasta County. (Amanda Mooneyham)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 72: Resident of Shasta County. In opposition to the decision made by the Board of Supervisors to remove the Dominion voting system, which was ridiculous and costly. Having worked as a poll worker, can state that voters overall had confidence in using the Dominion voting system over utilizing the drop box or putting it in the mail. Now faced with hand counting, it is essential that the “new” system be accurate and reproducible. Shasta County’s ROV, Cathy Darling Allen, has worked tirelessly to put such a system in place but will need a large workforce to meet the requirements for an accurate hand count. (Maja K. Sandberg)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 73: Resident of Shasta County with concerns regarding the new system of hand counting of ballots for the upcoming elections. In support of the Dominion voting system, but also hope that the new system is securely monitored. Very disappointed in the decisions made by local government and hopes that the next election will have strict measures to ensure that everything is conducted as secure as possible. (Barbara Cosindas)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 74: Long time resident and registered voter of Shasta County. In opposition to the decision to remove the Dominion voting systems, especially since there was no reliable system in place. With the voting systems gone, the implementation of the hand counting process needs to be strict and secure. In support of the proposed regulations, which will ensure accuracy, security, and transparency in the hand counting process. (Linda Wright)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 75: There needs to be regulations to be sure of the accuracy, security, and transparency of the vote counting process. The decision of the Board of Supervisors to terminate the Dominion voting system without having another voting system in place, cause a financial loss to our county as a result of a political power grab. As an active member in the community and election process, voter is ashamed by the lack of community input and collaboration with the Board of Supervisors. (Joyce Bianchini)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 76: The state regulations on hand counting is urgently needed. Resident in Shasta County. The Board of Supervisors has voted for hand counting in Shasta elections and it is urgent that the state provide oversight and regulations that ensure that hand counting is accurate, secure, and transparent in all counties. (Susan B. Crandell)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 77: In support of the proposed regulations that would ensure accuracy, transparency, and security in all elections in which the ballots are hand counted. Resident in Shasta County, which is now without a voting system and having to hand count ballots due to the decision of the Board of Supervisors. Hand counting must be done fairly and with accountability. (John Crowe)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 78: The following comments are specific to section 20355 of the proposed regulations, in which the elections official shall estimate the costs necessary to produce relevant material and an advance deposit shall be made at least one day prior to the materials being produced. Based on previous experience with the recount process in Los Angeles County and a lawsuit from 2020, “Ian Patton & Long Beach Reform Coalition v. LA County Registrar Dean Logan,” discretionary choices made by elections officials on how to conduct the recount, can increase the cost for requestors. Regulations should make clear that the costs of ballot retrieval, prior to the commencement of counting for a recount, should be calculated separately from the costs of the counting phase, and that only those cost resulting from reasonably cost-minimizing discretionary choices can be passed along to the recount requestor. (Ian Patton)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations. The suggestion was not adopted. Subsection 20355(e) require the elections official to issue a receipt for payment of the deposits and to maintain a daily log of estimated costs, deposits, actual expenses and amount of refund due, if any. Thus, costs for specific tasks or line items, should be fully transparent to the requestor.

Comment No. 79: Shasta resident with great concern with the Board of Supervisors and their decision to cancel the voting system, based on false information. Counting on the state to implement regulations that will ensure voters are not disenfranchised and that the elections are secure, accurate, and transparent. Hand counted ballots need to be verified by a machine count

for accuracy. Residents of Shasta County are looking forward to voting in better elections with less influence of conspiracy theories. (Susan Tipton)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 80: In support of the proposed regulation for hand counting of voter ballots. The situation in Shasta County may spread to other counties rejecting machine counting, therefore as counties move to hand counting, there need to be regulations to make it a fair and stable process. (Heather Hennessey)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 81: We need all the regulations we can get to regulate these hand count maniacs. (William F. Keller Jr.)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 82: Please ensure that the need for accuracy, security, and transparency of process in hand counting is acted upon. Some of the leaders in Shasta County need direction from the State to act in the best interest of all Shasta residents. (Pam Crowe)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 83: In support of the proposed regulations for hand counting in all counties of California. Resident of Shasta County where the Board of Supervisors have made a recent decision to hand count in all future elections. Lack of trust in the hand counting method and the partisan officials of the board, who can be convinced of anything as long as their side wins. Need a law that would require machine counting alongside hand counting and regulations to protect the voting rights of all Californians. (Ed McCarthy)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 84: Hopeful that the drafted regulations on hand tabulation of ballots be adopted. These regulations are important to ensure accuracy, honesty, and transparency. The Shasta Board of Supervisors has taken steps backwards and increases the need for oversight to ensure all can readily vote and that the votes will be accurately counted. (Brien McCall)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 85: Procedures for such a system must meet the highest standards of accuracy, security, and transparency if the results are to be trusted. To ensure that the manual counting of ballots is reliable, clear and uniform guidance is essential. In support of the proposed regulations, specifically Chapter 4.6 Manual Tally Standards. (Terry Applegate)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 86: Resident of Shasta County with concerns about the controversial replacement of the Dominion voting system and implementation of hand counting by the board of supervisors. For all voting, there must be defined regulations as guidelines for the security and transparency of the process and there must be validation and data compilation that reflects an overall fair and legal election and counting of ballots. It is imperative that regulations and guidelines be in place prior to the ominous undertaking of hand counting ballots otherwise it will potentially lead to a chaotic legal battle over the outcome of the vote. In support of regulations for any county choosing hand counting of ballots. (Diana Haynes)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 87: In support of Shasta County Clerk, Cathy Darling, in her effort to ensure accuracy in ballot handling and counting, security in all aspects of handling ballots and ensure necessary measures and steps are in place for transparency for the public. Rogue actors must not be allowed to run roughshod over the foundational element of democracy. (Penelope Steiner)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 88: In support of the proposed regulations on hand counting. If hand counting is accepted by the people of California, secure and strict hand counting regulations must be in place to ensure accuracy of elections. (Martha Berryhill)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 89: Long time resident of Shasta County with concern about the security and counting of votes. Some members of the Board of Supervisors are politically influenced, funded and motivated. The current Board of Supervisors fired the Dominion voting system and decided that all future elections be hand counted. Have great concern with the accuracy, security, and transparency of the hand counting process. Support the new hand counting regulations being implemented by the Secretary of State. (Tammy Cole)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 90: Registered voter in Shasta County with concerns regarding the recent decision by the Board of Supervisors to move to hand counting ballots. The current majority of the Board of Supervisors is politically motivated by elections deniers. In strong opposition to relying on hand counting. (Christine Woroneicki)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 91: Registered voter and resident of Shasta County, which is currently without an approved voting system due to the decision of the Board of Supervisors (Crye, Kelstrom, and Jones). In support of the proposed hand counting regulations as implemented by the State. The regulations reflect a need for accuracy, integrity, security, and transparency of process in hand counting. (DeeAnn Schuttish)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 92: In complete agreement with the rules Ms. Darling Allen has put forth for hand counting ballots. She is experienced and honest in her work in our county. (Jan Peugh)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 93: Registered voter and resident of Shasta County, which is currently without an approved voting system due to the decision of the Board of Supervisors (Crye, Kelstrom, and Jones). In support of the proposed hand counting regulations as implemented by the State. The regulations reflect a need for accuracy, integrity, security, and transparency of process in hand counting. (Alan Parkman)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 94: If hand counting is used in Shasta County, it must be safe to vote and the counting of ballots must be safe and secure with all the necessary and appropriate oversight to ensure accuracy. The current situation is fraught with smugness and complacency that no oversight is needed. Shasta County voters need to be assured that the process of hand counting ballots will be done with detail, decorum, thoughtfulness and care. (Nena L. Perry)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 95: Shasta County Clerk Cathy Darling Allen has worked her entire career to ensure fair elections. The new regulations need to provide funding, transparency, and accuracy for upcoming elections. The three Board of Supervisors who decided to terminate the Dominion voting system have done nothing but burden, obstruct and embarrass the County Clerk's office. Help Shasta County voters have fair and trusted elections when the regulations are presented. (Michael Logue)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 96: Provided a report based on information collected from the June 7, 2020, election, which shows issues with the elections machines and proves computers can be hacked and manipulated. In opposition of Assembly Bill 969. (Stacey Pearce)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 97: Resident of Shasta County and in strong support of the proposed regulations for hand counting of ballots. Machine counting with a hand counting verification process is the proven best method for the counting of ballots and most accurate, secure and transparent method. Hand counting of ballots must be reasonably regulated. (Edward C. McGowan)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 98: In support of the proposed regulations on hand counting. Need accuracy, security, and transparency in the process of hand counting ballots. (Barbara Giuntoli-Juell)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 99: The below are specifically identified concerns from Los Angeles County on the proposed regulations by section number outlined in the provided public comment. (Latoya Johnson-Mosley)

1. Section 20283 Optical Scan Voting Systems-Subsection (c)(8) requires remake process after tally, need to hear from Election Tally Systems team.

2. 20299 Manual Tally Plan – Subsection (a) needs to clarify if this applies to local jurisdiction elections; subsection (a) may also need to consider changing the frequency, possibly on an annual basis instead of every election cycle; the update schedule listed in subsections (e)(2) and (e)(3) will be very challenging; subsection (f)(13) needs to clarify the significance of assigned colors of writing devices; and overall, subsection (f) may be problematic in terms of possible SOS rejection of the Manual Tally Plan or portions of the Manual Tally Plan in if certain resources, equipment, and supplies don't exist or are unavailable/inaccessible (e.g., subsections (f) (5), (8), (11), and (13))

3. 20300 Counting Boards – Subsection (b) may be problematic in terms of verifying voter registration information, especially for nonpartisan contests; also, assigning 4 individuals to a board is logistically difficult; and subsection (e) may be problematic if the declaration is required before the county elections official

4. 20301 Manual Tally Forms – Subsection (a)(3) is problematic in terms of serialized ballot numbers; subsection(a)(4) is problematic since LA County tallies per batch, not per political party; subsection (a)(5) is problematic as write-in candidate names are not part of the tally sheet and the Statement of Votes Cast; need to hear from the Election Tally Systems team; subsection (a)(6) needs to be clarified, not certain of meaning; subsections (a)(7) and (a)(8) are problematic in terms of space issues and supply consumption; subsections (a)(9), (a)(10), and (a)(11) are problematic due to volume and insufficient number of staff to complete certificates and the manual tally within 30 days

5. 20302 Other Responsibilities – Subsections (a) and (c) are problematic due to limited resources

6. 20303 Conducting a Manual Tally – Subsection (a)(1) is problematic if the expectation is to do sequential serialization manually; subsection (a)(4) may be problematic, need to hear from Election Tally Systems team; subsections (a)(5)(A) and (a)(5)(B) are problematic as they are labor intensive; subsection (d) appear problematic in terms of budget; (a)(k) is problematic, need to hear from Election Tally Systems team; subsection (l)(1) needs clarification regarding the purpose of a 1% manual tally; subsection (l)(2) must clarify meaning of “resecured”; everything under subsection (m) is problematic due to staffing resources, volume, double tally, and 25 ballot limitation per stack; overall, much of 20303 is problematic

7. 20304 Manual Tally Cumulating Board – Subsections (a) through (f) are problematic due to staffing resources and additional use of time

8. 20306 Reporting Elections Results by Manual Tally – Subsections (a) through (g) need to clarify the use of “key data entry”, also not certain of the meaning of “by Manual Tally” in the regulation heading

9. 20312 Public Notice and Observation – Subsection (a)(4) needs to be clarified; appears to be a duplicate of subsection (a)(3); Subsection (b) may be problematic; need to hear from the Outreach team

10. 20313 Selection of Ballots to Tally – The heading may need to be clarified; it appears the meaning is “Selection of Ballots to Be Used in the Manual Tally” or something similar

11. Summary of notes from Brian (Los Angeles County): The majority of the regulations are for Canvass Operations and some VBM (voter sigs and other materials) processes. Section 20370 pertains to Tally but is nothing new. He does not think Los Angeles has ever done a manual Tally that involves sections 20296, 20297, 20298, 20299, 20300, 20301, 20302, 20303, 20304, 20305, 20306, and 20307 of the proposed regulations. These sections still describe a hand count prior to the vote center model and unsorted vote by mail ballots. These regulations have no impact to vote by mail.

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. Submitted comment was incomplete and no response can be made.

2. These suggested amendments were not made to the proposed regulations. Section 20298(a)(1) states that any election official may conducting a full manual tally. Section 20299(a) states that any elections official conducting a full manual tally, shall submit a manual tally plan to the Secretary of State. Therefore, this section applies to any election official conducting a full manual tally.

The requirement in subsection 20299(a) for the elections official to submit a manual tally plan prior to each election was not amended because an elections official may have multiple elections in a year and may need to alter the specifics of the manual tally plan, such as the number of staff needed to conduct the manual tally, based on the size of the schedule election.

The submitted comment for subsections 20299(e)(2) and 20299(e)(3) simply state this may be a hardship, but do not provide further information, therefore this comment is incomplete, and a response cannot be provided.

The submitted comment for subsection 20299(f)(13) is already provided in the proposed regulations, which state that the changing of the writing device color is for security purposes.

The submitted comment regarding the overall subsection 20299(f) potentially being problematic does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

3. The submitted comment regarding subsection 20300(b) and the difficulty of verifying a voter's registration is opinion and not applicable. Additionally, all members of a counting boards shall be registered voters, whose voting record can be verified by the elections official. Lastly, Election Code section 15102 requires that no less than four persons for each office or proposition on to be counted, shall make up the counting board when the tally is done by hand.

The submitted comment regarding subsection 20300(e) being problematic does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

4. The submitted comment regarding subsection 20301(a)(3) states that serialization of ballots is problematic but does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

The remainder of the submitted comment regarding subsection 20301(a)(4) is unclear if it is regarding the manual tally process or an automated process, therefore a response cannot be provided.

The submitted comment for subsection 20301(a)(5) is inaccurate and confusing because the section clearly states in the subsection that the name of each candidate, including qualified write-in candidates, shall be including on the provided manual tally form. The comment is also incomplete; therefore, a response cannot be provided.

The submitted comment for subsection 20301(a)(6) being unclear does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

The submitted comments for subsections 20301(a)(7) and 20301(a)(8) being problematic does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

The submitted comments for subsections 20301(a)(9), 20301(a)(10), and 20301(a)(11) being problematic due to volume and insufficient number of staff to complete the manual tally within 30 days is unclear and confusing. The purpose of section 20299 is for the elections official to

prepare a manual tally plan from which the manual tally is implemented. In implementing the manual tally plan, the elections official is required to secure enough staffing to complete the manual tally plan within the required deadlines. Due to the unclear meaning of this comment, a response cannot be provided.

5. The submitted comment for subsections 20302(a) and 20302(b) being problematic due to limited resources does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

6. The submitted comments for subsections 20303(a)(1), 20303(a)(4), 20303(a)(5)(A) and 20303(a)(5)(B), 20303(d), and 20303 (m) being problematic does not provide enough information, therefore, a response cannot be provided.

The submitted comment for subsection 20303 (l)(1) regarding the purpose of a 1% manual tally does not exist in this section. Therefore, this comment is incomplete, and a response cannot be provided.

The submitted comment referencing to 20303 (a)(k) does not exist, therefore this comment is incomplete, and a response cannot be provided.

7. The submitted comment for subsections 20304(a) through 20304(f) being problematic due to staffing resources and additional use of time, does not provide enough information, therefore this comment is incomplete, and a response cannot be provided.

8. The submitted comment seeking clarification for the term “key data entry” for subsections 20306(a) and 20307(g) was not made. The term “key data entry” is a common term used in the California elections community as well as the realm of technology, referring to the manual entry of data by use of a keyboard. These regulations are intended for use by elections officials, who should be familiar with the term. The header in section 20306 is to clarify that these results are reported specifically when a election official choose to conduct a full manual tally rather than using a certified voting machine.

9. The submitted comment for subsections 20312 (a)(3) and (a)(4) are not duplicates. One refers to the observation of the retrieval of ballots and tally. The latter refers to the voters’ marks on every tallied ballot. The comment regarding subsection (b) is incomplete and a response cannot be provided.

10. The submitted comment for the title of section 20313 was adopted. The section is now titled “Selection of Ballot for Manal Tally.”

11. Submitted comment was commentary from the Los Angeles County Registrar’s office on the proposed regulations and does not directly address any specific adoption, amendment or repeal proposed. No suggestions or amendments were made therefore no response can be provided.

Comment No. 100: Shasta County has made the decision to proceed with hand counting as provided under existing law. It is expected that Sacramento acknowledges and support this decision. We can either work together to ensure successful going forward or demonstrate to the entire country how strong our resolve it to maintain local control of our elections.

1. These proposed regulations are inconsistent and incompatible with the existing California Elections Code which explicitly provides for hand counting.
2. Existing law does not give the Secretary of State authority to rescind established election code.
3. These proposed actions would be unconstitutional overreach by the state to usurp local county control in a blatant attempt to give authority to the SOS that she does not have. (Jeff Lowe)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Under Elections Code section 10, the Secretary of State is the chief elections official for the state and oversees all statewide elections and under Government Code section 12172.5 has the express authority to adopt regulations to “ensure the uniform application and administration of state election laws.”

Comment No. 101: Residents of Shasta County that are concerned with the attempts to implement hand counting. Machine counting has been shown to be more accurate and efficient as the number of votes increase. If areas wish to promote counting by hand, then there needs to be a limit on the number of votes that can be reasonably accommodated. Shasta’s voter population size makes finding personnel needed to accurately and efficiently count votes by hand unreasonable. Have historically had faith in the vote counting process, both at local and national elections, but any switch to hand counting increases the concern for accuracy and security of the votes. (David and Judy Bush)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 102: Resident of Shasta County that is dismayed over the Board of Supervisor’s decision to remove the Dominion voting machines and switch to hand counting based on perceived fraud. There needs to be State oversight and regulations to accompany the hand counting process to assure voters that the ballots are counted correctly and in accordance with other counties administering this system. (Lynne M. Jones)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 103: Resident of Shasta County for 46 years, where hand counting is currently being pushed for. Machine counting has been shown definitively to be more accurate and secure. Help Shasta with sound regulations. (Catherine Cansino)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 104: Resident of Shasta County that is in favor of the proposed regulations to prevent or limit the use of hand counting ballots in California. Has a fear of voters becoming disenfranchised as the Board of Supervisors attempt to force hand counting of ballots. Hand counting ballots is expensive, and that money could be put to better use in the county. Paper ballots being counted by a certified machine leads to more timely and accurate counts while allowing for transparency and security. If hand counting is to be allowed in larger counties, there needs to be significant regulations in place to ensure that the same timely, accurate, secure, and transparent counting can occur. There can be no trust in results of an election counted by hand without an approved state process. (Noel J. Bush)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 105: In support of the proposed regulations regarding the hand counting of ballots. (Patrick Moriarty)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 106: The submitted comment is the same comment submitted above in Comment No. 104. (Randy Bush)

Response: Please see response above to Comment No. 104.

Comment No. 107: Writing in support of the proposed regulations for ballot counting. There needs to be accuracy, security, and transparency in hand counting. (Vera Cecchi)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 108: Resident of Shasta County for 25 years and is concerned that she will not be able to vote in future election and participate in the elections process. The concept of being able to hand count 110,000 ballots effectively and accurately is absurd. Shasta needs to adopt one of the approved voting machines and abandon the idea of hand counting. (Liz Zanze)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 109: In opposition to Assembly Bill 969, which takes power and structure away for county government and harms small, rural counties, putting them under control of LA and SF. The state has not proven to be a good steward for votes. As a citizen of a rural county, wants to make sure their vote is counted per the county legislation, not the state, which is essentially ran by LA and SF counties. (Christine McKeehan)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 110: The state needs to have much more practice in managing the money for our elections. In the hearing, it was stated that humans make mistakes in counting but humans make the machines, and having 33 years' experience in the tech industry, people make mistakes too, and sometimes on purpose.

In opposition of Assembly Bill 969, which is a direct declaration of war by the State against self-governing county governments. The bill implies that counties cannot be trusted to ensure a viable election plan without oppressive state law that removes options for voters. Assembly Bill 969 will discriminate against vulnerable voter communities while also interfering with and contradicting language in Title 52, Subtitle 1 & 2, Chapter 1010, Section 10101 and 10102 of the United States Constitution.

Californians want transparency in their elections and the Legislators intruding in county affairs to this extent will lead to more voter distrust in state and federal elections. Shasta County was diligent in their assurance that the absolute opposite would be the case and is following the many awesome examples of which elections officials in every county should be able to precede them in a similar decision. We trust our local boards and have elected to make the best decisions for our districts and counties. Vote no on Assembly Bill 969. (Stephanie Suela)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 111: Resident of Shasta County in support of the proposed regulation on hand counting. Ms. Cathy Darling Allen has been excellent steward of voting integrity and it is important that she has the tools and support needed to provide fair, transparent, accurate, and secure elections processes. There are some residents of Shasta County who oppose government intervention; however, most residents of Shasta and other counties depend on such processes to make sure their voices are being heard, their votes counted, and that their elected officials are able to conduct the business of the people with minimal or limited interference. (Sharon Brisolara)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 112: In support of Cathy Darling Allen and the proposed regulations on hand counting. Cathy Darling Allen is doing all that she can to put together a safe and secure hand counting system for our elections. The hand counting process needs to be carefully monitored as there may be opportunities for more mistakes with the hand counting process versus the Dominion systems previously used. (Linda and William Masterson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 113: Shasta County is headed back to an outdated, archaic hand counting system. If it is the will of the majority, it should be carried out, however counting should still remain honest, accurate, efficient and fair even if it is cumbersome and challenging. (Sheryl Roscoe)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 114: Resident of Shasta County for 30 years, where all voting has been done in an honest manner. Please prevent this archaic voting by hand method from going into effect in Shasta, where the supervisors have political motivations. (Ann Wright)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 115: Strongly recommend the adoption of the proposed regulations, Chapter 4.6 for manual tally standards. Resident of Shasta County that does not feel confident in manual counting for any election. Wanted their vote to count and feels that manual counting will have errors and not be as secure or transparent as in the past. (Janice Hunter)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 116: In support of the State's efforts to maintain our election integrity despite some counties' attempts to "make our elections safe and secure." People who claim that California elections have not been secure, do not base their opinions or actions on fact and the State is relied on to use proven fact-based solutions to help the counties. Has volunteered in past elections and witnessed the county and state protocols, systems and check and balances in place. It is sad that the county is wasting so much money, time and resources to fix a problem that doesn't exist. (Shelly Hutchinson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 117: Recommend the adoption of the proposed regulations, Chapter 4.6. Requiring hand counting of ballots in Shasta County is a ridiculous idea proposed by two politicians funded by a former Shasta resident with a personal grudge. Please help bring sanity to Shasta County's government. (Robert Shive)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 118: I do not want the Secretary of State to try to negatively affect California elections by bringing in dominion voting machines. She has no authority to do so. (Lisa Bassett)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring "that elections are efficiently conducted and that state election laws are enforced."

Comment No. 119: If a county wants to hand count ballots, let them do so. Different counties have different needs and what works for some does not always work for others. There is no logical reason to force one way of counting for the whole state. Let local government officials who know the area best decide. (Sharon Ponder Holbrook)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 120: Yes on hand counting of ballots. There is too much room for fraud with computer counting. (Pam Conner)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations

Comment No. 121: Thirteen comments were provided in response to the proposed regulations. Each comment has been summarized below. (Amy Young)

1. The Secretary of State has not given substantial evidence to support her proposed regulations on hand counting are necessary or that hand counting is historically inaccurate. Government Code section 11350(b)(1) states that a regulation may be declared invalid if the regulation is not supported by substantial evidence. Provides quote from the MIT document, Learning from Recounts, referenced in the Initial Statement of Reasons, that discusses the error rate in ballots counted during the presidential election in 2016. The MIT study is not substantial evidence for these regulations, and it proves that citizens against machine counting are justified in their concerns and that the one percent manual tally is too small to catch machine errors.

2. The Secretary of State has not given substantial evidence to support her proposed regulations on hand counting are necessary though the use of the Nye County, Nevada YouTube video. In the video cited, the elections clerk explains that the 25% error rate for that election was an initial error, that once resolved led to the error rate being zero. The elections clerk also goes on to state that they were able to certify the election on-time, his constituents had increased confidence in the results, and they had a better count than the machines. The Nye County YouTube video is not substantial evidence for these regulations or that hand counting is historically inaccurate, nor does it qualify under Government Code section 11349.

3. The Secretary of State claims authority to require and reject a manual tally plan in Chapter 4.6 of the proposed regulations. The Secretary of State goes beyond providing “standards and requirements” by assigning herself the new authority to both require and reject a manual tally plan without providing guidance to the elections official on why the plan was rejected. Government Code section 12172.5 provides the Secretary of State with the authority to require elections officials make reports concerning the elections in their jurisdiction, but a report is on something that already happened, a plan is on something that will be done. The Secretary of State needs to wait until Assembly Bill 969 is passed for her to have the authority to require a plan or implement these regulations. By requiring the elections officials to submit a manual tally plan, it is not an efficient use of their time and is an unnecessary burden on the elections officials. Existing regulations and statutes already detail how an elections official will conduct an election and tally votes.

4. The following is in objection to the full simultaneous machine audit of the manual tally proposed in section 20299(f)(11). Stated in the Administrative Procedures Act, Government Code section 11346.2(b)(1), Where the adoption or amendment of a regulation that would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.” The Secretary of State has not given a statement why a full machine audit of the hand count is justified, nor has she explained why the current practice of a 1% manual tally would not be sufficient quality control. In the authorities cited, there is not mention of using a voting system to do a full and simultaneous audit of the manual tally. In fact, there is not mention of auditing the full manual tally at all. In the Statement of Reasons, the Secretary of State acknowledges that the “Elections Code is silent on how to audit a manual tally.” This new requirement in the proposed regulations is not making specific any portion of the elections code cited (Sections 15270-15281, 15375).

5. In continuation of the objection to the full simultaneous machine audit of the manual tally proposed in section 20299(f)(11). The Administrative Procedure Act section 11346.2(a) asks if the regulations implement, interpret, make specific, or otherwise carry out the provisions of a statute, or is the regulations reasonably necessary to effectuate the purpose of the statute and are they consistent with the statute. Because there is no statute that even mentions a full manual tally in any way, the answer is no to all the above questions in section 11346.2(a). The use of a voting system to conduct a full audit of the manual tally is not necessary.

6. In continuation of the objection to the full simultaneous machine audit of the manual tally proposed in section 20299(f)(11). The Administrative Procedure Act section 11346.2(e) requires a regulation to be an “efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner”. Requiring a full audit of every manual tally is a far cry from the current standards of auditing 1% of the ballots. Section 20299(f)(11) is a huge burden on the time and human resources as well as the county finances. A county wishing to return to hand counting will be saddled with the costs to purchase, store, maintain, and license expensive voting systems it no longer needs or wants. Remove section 20299(f)(11) because it is unlawful.

7. The Secretary of State does not have the authority to adopt these regulations. Section 15270.2 in Assembly Bill 969 did not exist at the time these proposed regulations were created and are not included in the authorities cited. The Secretary of State will need to go back and restart the regulatory action process with these regulations once Assembly Bill 969 passes. Additionally, if Assembly Bill 969 passes, section 20298(a)(1) will be in direct conflict with the law and the Secretary of State will have to include a substantial change in the new draft of proposed regulations.

8. The proposed regulations make hand counting impossible. The Secretary of State may adopt regulations to ensure the uniform application and administration of elections laws. Many of the proposed regulations will prevent the application of Elections Code section 15270. As stated in Government Code section 11340.1. "It is the intent of the Legislature that the purpose of such review shall be to reduce the number of administrative regulations and to improve the quality of those regulations which are adopted." The Secretary of State has not drafted these regulations with the intent of the Legislature in mind. Sections 20299, and 20301(a)(7) are unnecessarily burdensome and in practice will cause any county making a good faith effort to conduct a full manual tally to fail. These regulations are overly burdensome and in conflict with Elections Code sections 15270 et seq and are not acceptable.

9. Many of the proposed regulations are overly burdensome and obstruct the implementation of Elections Code sections 15270-15281.

Section 20303(f) requiring 10 feet between tables will cause the county to need a large room that the cost and location of the venue will be prohibitive.

Section 20299(f)(7)(B) requiring a scale diagram of the counting room layout will need to be drawn by an architect or someone with CAD software skills. This will cost the county thousands of dollars, which the Secretary of State has not considered.

Section 20299(d)(2) allows the Secretary of State to reject the manual tally plan without providing any specific reasons. If the county does not know what's wrong with the plan, they cannot try and fix it.

Section 20299(f)(10) requires the use of a voting system concurrently with the manual tally is cost and time prohibitive and the Secretary of State has not justified why a full audit is necessary.

10. Continuation of the proposed regulations being overly burdensome and obstruct the implementation of Elections Code sections 15270-15281.

Section 20301(a)(7) and section 20303(a)(5) limit the number of ballots to a stack to 25. This regulation paired with the fact that the manual tally form and certificate of performance must be filled out for each stack, will create a bottle neck and unnecessary delays. The Secretary of State has also not accounted for the fact that in the 1% manual tally, batches as large as 200 are successfully counted.

Section 20303(a)(1) requires the elections official to sequentially serialize each ballot. This is not currently done when ballots are counted with the computerized voting systems and it is not done

when the 1% manual tally is conducted. There is no demonstrated need for this and will add unnecessary delays. The Secretary of State has not considered why the current practice of capturing digital ballot images is not sufficient to keep track of each ballot. Indeed, the ballot images could be automatically assigned serial numbers in the file names.

11. The 1% manual tally is evidence of the accuracy and reliability of hand counting and has been used by counties since the adoption of Elections Code section 15360. One percent manual tallies have accurately tallied ranges of hundreds to thousands of ballots, including 53,000 votes from Orange County's 2020 General Election in less than 30 days. One percent manual tallies have routinely meet or exceed the accuracy of the voting system results with either no discrepancies or catching errors made in adjudication or the result of faulty interpretation of voter marks. In San Bernardino, a counting staff of 89 people were hired, trained and managed for the one percent manual tally in 2020 General Election.

The real-world evidence of the success of one percent manual tallies proved that a complete manual tally can be done without the overly burdensome proposed regulations from the Secretary of State and that a complete manual tally can be conducted free of fraud, manipulation, interference, and disruption as well as without the requirement of submitting a plan to the Secretary of State. The accuracy of the one percent manual tallies shows that the proposed regulations are not justified.

12. The proposed regulations do not ensure uniform application of state laws. As cited under the authorities in Government Code sections 12172.5(a) and 12172.5(d), "The Secretary of State shall see that elections are efficiently conducted" and "may adopt regulations to ensure the uniform application and administration of state elections laws." How do the proposed regulations ensure uniform application and administration of the laws already in place, namely, Elections Code sections 15270 et seq?

Sections 20299(f)(13) and 20299(f)(14) state that the elections official may limit the presences of personal items and use of cell phones, meaning some elections official will and some won't. Section 20299(f)(14), which requires the elections official to provide a description of how they will provide reasonable access to the media and observers is subjective and contradicts Elections Code section 15104(d), which allows observers to be sufficiently close access to enable them to observe the vote by mail ballot return envelopes. The proposed regulations 20299(f)(13) and 20299(f)(14) are ambiguous and, contrary to their imperative, do not ensure the uniform application and administration of state election laws, because (1) the rules are stated in affirmative but in permissible language with the words "may" and "reasonable" and (2) are in direct conflict with current statutory elections law.

13. In closing, cited Government Code section 11346.9(a)(3), summarizing how the provided comments have been specifically directed to the Secretary of State's proposed regulations and have shown that the Secretary of State has not provided "substantial evidence" to support the claim that hand counts are historically inaccurate. Have also show that there are less burdensome alternatives to many of the proposed regulations. Cited Government Code section 11346.2(b)(4)(A) in which agency must provide reasons for rejecting those alternatives and

consider the alternatives that are proposed as less burdensome and equally effective in achieving the purpose of the regulations in a manner that ensures full compliance with the authorizing statute, in this case, Elections Code sections 15270 et seq. The Secretary must also show how performance standards have been considered as alternatives to imposing a full audit of the manual tally using a computerized voting system.

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. & 2. The referenced information in the Initial Statement Of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

3. The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Government Code section 12172.5 authorizes the Secretary of State to require elections officers to make reports concerning elections in their jurisdictions. The Secretary of State has historically requested plans and reports from elections officials to coordinate the implementation and conduct of elections.

Subsection 20299(d) was amended to require the Secretary of State to provide a written list of discrepancies in the plan to the elections officials when rejecting the manual tally plan. The proposed regulations afford an election official two opportunities to submit their manual tally plan to the Secretary of State. This was necessary to ensure the Secretary of State provides the elections official with the reasons why a manual tally plan was rejected. The condition of only allowing two submissions is in consideration of the limited time elections officials have when planning and conducting an election.

Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots at a precinct level, however the elections code does not have guidance on how to conduct a full manual tally. The proposed regulations are intended to provide clear and concise guidance on how to conduct a full manual tally of ballots.

4., 5., & 6. Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. The proposed regulations are necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

7. The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

8., 9., & 10. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots at a precinct level, however the elections code does not have guidance on how to conduct a full manual tally. The proposed regulations are intended to provide clear and concise guidance on how to conduct a full manual tally of ballots.

These proposed regulations are not in conflict with Elections Code sections 15270-15281, for Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct. These regulations do not take away a elections officials option of conducting a manual tally of ballots at a precinct pursuant Elections Code section 15270-15281, but rather provides additional guidance missing from Elections Code on how to conduct a full manual tally of all the ballots in the jurisdiction, not just ballots cast at a precinct voting location.

Section 20299 is proposed to be added to establish the requirement of any elections official that is to conduct a manual tally of all their ballots to submit a manual tally plan to the Secretary of State for their approval or rejection. The California Government Code 12172.5 authorizes the Secretary of State to request reports or plans to ensure that elections are efficiently conducted, and that state and federal election laws are enforced. A manual tally plan by the elections official is necessary to ensure that the counting is conducted in accordance with state and federal law and is done efficiently, accurately, securely, fairly, and are accessible.

Section 20301(a)(7) states that sufficient space to permit the tallying of no more than 25 ballots per stack, including the full vote cast for each candidate and for and against each measure, per assigned stack of ballots shall be included on the manual tally form. This provision is also included in state law, under Elections Code section 15277. The requirement of having sufficient space for the tallying of votes is necessary because it allows for the proper tracking of each vote as the manual tally is being conducted. The talliers will also be able to record the votes in the same area which makes it easier for reporting and post-election auditing. Subsection 20301(a)(7) is necessary to clarify that the forms used for conducting a full manual tally must meet specific requirements and is necessary to be consistent with state law.

Section 20303(f) was amended to remove the condition of a single table and a 10 feet distance between counting boards. This is a necessary modification to provide elections officials with more flexibility for implementation of counting areas. Depending on the secured location, some elections officials may use multiple tables together to accommodate the spacing of the counting boards and may need to increase the space between counting boards to help with reducing the noise between tables.

Section 202299(f)(7)(B) was amended to remove the phrase “A scale diagram depicting.” The removal of this language is necessary to help clarify that the elections official is only required to include a description of the planned set up of the manual tally location and to eliminate any confusion on needing to provide a scaled replica of the location or hire an architect.

Section 20299(d)(2) was amended to include the condition that the Secretary of State shall provide in writing a list of any deficiencies in the manual tally plan when issuing a rejection of the initial submission. This is a necessary modification because it requires the Secretary of State to clearly identify issues with the submitted manual tally plan, which in turn provides the elections official with clear guidance on what needs to be modified or addressed in the resubmission of the manual tally plan.

Section 20299(f)(10) requires a detailed description of how the manual tally will work in conjunction with the use of the voting system. This is necessary as ballot set up, the use of accessible voting devices and tabulation are supported by a certified voting system and have Use Procedures approved and certified by the Secretary of State. It is necessary for the manual tally plan to take into consideration and document how the manual tally process will successfully integrate with those components.

Subdivision 20299(f)(11) requires the elections official to provide a detailed description of how the manual tally results will be verified and audited using a certified voting system tabulator. Currently, the Elections Code contemplates a 1 percent manual tally when votes are tabulated using a voting machine. The Elections Code is silent on how to audit a manual tally. Because manual tallies are historically inaccurate, running all ballots through a certified tabulator is necessary to validate the results. This is an essential step in the process of counting ballots and therefore having a detailed description of how the elections official will conduct the audit is necessary.

Section 20301(a)(7) states that sufficient space to permit the tallying of no more than 25 ballots per stack, including the full vote cast for each candidate and for and against each measure, per assigned stack of ballots shall be included on the manual tally form. This provision is also included in state law, under Elections Code section 15277. The requirement of having sufficient space for the tallying of votes is necessary because it allows for the proper tracking of each vote as the manual tally is being conducted. The talliers will also be able to record the votes in the same area which makes it easier for reporting and post-election auditing. Subsection 20301(a)(7) is necessary to clarify that the forms used for conducting a full manual tally must meet specific requirements and is necessary to be consistent with state law.

Section 20303(a)(5) requires that the ballots be divided into stacks of no more than 25 ballots per stack and that each stack shall be read and tallied separately. Each stack of ballots shall be secured, clearly labeled and numbered consecutively. This requirement was included in the proposed regulations as a necessity to clarify that the ballots shall be secured and tracked during all stages on the manual tally. The limit of 25 was proposed after careful consideration and in an effort to mitigate errors when manually counting the ballot. By having smaller stacks of ballots, if the counting board makes an error and needs to restart the count over, a smaller stack will not take as long as a larger stack and will be easier to recount.

Subsection 20301(a)(9) states that a certificate of performance is to be filled in upon completion of the each assigned ballot stack, which includes space for the printed and signed names of each counting board member, their designated role, and the date and time signed. Precinct boards are required to complete this certificate pursuant to Elections Code section 15280. Elections Code section 15207 states that counting boards shall be deemed to be precinct boards. Subsection 20301(a)(9) is necessary to clarify that a certificate of performance is required by a counting board and is necessary to be consistent with state law.

Section 20303(a)(1) is proposed to establish that prior to beginning the manual tally the elections official shall sequentially serialize each ballot, electronically capture the ballot images, sort each ballot by precinct (if the ballots are for a presidential primary election, sort the ballots further by qualified political party and nonpartisan ballots), and divide the ballots into separate stacks of not more than 25 ballots per stack to be read and tallied separately as well as being secured and clearly labeled. The serialization of the ballots is necessary to maintain the security and accounting of the ballots, prevent ballots from being lost, changed or modified through mis- or malfeasance of those who will be handling the ballots, and by capturing the ballot images, the elections official is securing a visual image for comparison, if needed, should the integrity of a ballot be questioned during the manual tally process. Although the serialization of the ballot images is not currently required under Elections Code, many elections officials do serialize the ballots to assist with the auditing process of the election results and maintain the chain of custody for the ballots. As the commentor stated, the current practice of capturing digital ballot images utilizing a certified voting system can be used to also serialize the ballots, however, not every voting system has the capability to serialize the ballots this way, therefore elections official has the option of using traditional methods, such as bates-stamping to serialize the ballots.

11. Under Elections Code section 15360, the elections official conducting the election in which a voting system is used, shall conduct a one percent manual tally of the ballots tabulated by the voting system. Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. These proposed regulations are necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

Additionally, the one percent manual tally is an audit of at least one percent of the ballots tabulated in an elections. The commentor cited that Orange County successfully hand counted 53,000 votes from the 2020 General Election in less than 30 days, however it should be noted

that Orange County had a total of 1,546,570 ballots cast during the November 2020 General Election. A one percent manual tally is vastly different from a full manual tally of all the votes cast for an election, therefore the manner in which each manual tally is conducted is different.

The commentor also stated that San Bernardino County was able to hire a counting staff of only 89 people to conduct their one percent manual tally in the 2020 General Election. Again, it should be noted that San Bernardino had a total of 852,636 votes cast in the November 2020 General Election. One percent of the total votes cast in San Bernardino County for the November 2020 General Election would be estimate out to just under 9,000 ballots. Therefore, a staff of 89 people would make sense for conducting a one percent manual tally of the ballots but would not be adequate for conducting a full manual count of all 852, 636 votes cast. Additionally, Elections Code section 15102 states that when the tally is done by hand, there shall be no less than four persons for each office or proposition to be counted, present on the counting board.

12. Pursuant to Elections Code section 10, the Secretary of State is the chief elections officer of the state and has the authority under Government Code section 12172.5 to adopt regulations to ensure the uniform application and administrative of state election laws and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.” Additionally, under Elections Code section 320, an elections official is “a clerk or any person who is charged with the duty of conducting an election.”

The proposed regulations were drafted to provide clear and concise guidance to California elections officials on how to conduct a full manual tally of ballots. State law, under Elections Code sections 15270-15281 does provide guidance on how to conduct a manual count of ballots at a precinct level, however the elections code does not have guidance on how to conduct a full manual tally.

These proposed regulations are not in conflict with Elections Code sections 15270-15281, for Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct. These regulations do not take away an elections officials' option of conducting a manual tally of ballots at a precinct pursuant Elections Code section 15270-15281, but rather provides additional guidance missing from Elections Code on how to conduct a full manual tally of all the ballots in the jurisdiction, not just ballots cast at a precinct voting location.

In Sections 20299(f)(13) and 20299(f)(14) the use of the phrase “may” is used to provide the elections officials flexibility in how to implement their elections. The conduct and implementation of elections in California is a partnership between the state and local election official, in which all parties work together to ensure the success and security of the election. Throughout various regulations, permissive language is used to provide flexibility in areas of implementation while still enforcing compliance with state law. In Sections 20299(f)(13) and 20299(f)(14), the elections official has the discretion to limit the use of personal items, cell phones and other media devices if they are interfering with the elections process. Additionally, both of these proposed sections are necessary to maintain the integrity of the manual tally

process, aid in the physical security of the ballots, and ensure voters' right to a secret ballot is not compromised.

13. The Secretary of State has summarized and provided responses to each of the above proposed comments directly related to the proposed regulations. In the submitted comments, no alternatives were specifically identified as an alternative to the proposed regulations, however the commentor did specifically address the use of the one percent manual tally in lieu of a full audit of the manual tally through the use of a certified voting system. As addressed in response number 11 above, the conduct of a one percent manual tally is not the same as conducting a full manual tally of all the votes cast in an election. The number of ballots cast in a regular election is exponentially greater than those used in a manual tally. and since the Elections Code does not offer guidance on how to audit a full manual tally, section 20305 provides that necessary guidance for the elections official for a much larger number of ballots.

Comment No. 122: No to Assembly Bill 969, as it erodes the power of counties to run honest and fair elections. Our founders knew that by giving power to local groups there would be less change for corruption. Power is being more and more centralized which is evident of the founder's wisdom being correct. Say no to Assembly Bill 969. (Pam Prewett)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 123: Please do not enact this bill. Our democracy's foundation should ensure that our local officials have control over the methods by which our votes are counted. (Vernon R. Wolley)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 124: In opposition to hand counting in Shasta County. The Board of Supervisors were elected using the Dominion voting system, which was accurate. The Board of Supervisors is implementing hand counting as a political decision. (Deborah Stokes)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 125: No to the proposed regulations and Assembly Bill 969. The proposed changes further erode local control of the elections process. A “one-size fits all” does not take into account local realities and sensibilities. (Wilma Theis)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 126: The comment submitted is the same comment submitted above in Comment No. 8. (Jonathan D. Stern)

Response: Please see response above to Comment No. 8.

Comment No. 127: The comment submitted is the same comment submitted above in Comment No. 8. (Mary E. Stern)

Response: Please see response above to Comment No. 8.

Comment No. 128: Strongly urge the California Secretary of State to discontinue the proposed regulations to hand counting that will forever preclude hand counting of ballots; even if the local Registrar of Voters determines to implement hand counting. The proposed regulations further erode local control of the elections process, into a one size fits all manner that does not take into consideration local sensibilities and realities. At a recent hearing on resolutions for ballot counting called by Secretary Weber, who was not in attendance, 95% of the speaker spoke out against the regulations. (Jimmy and Jeanine Hicks)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 129: I want to have hand counted ballots. (Dave Croft)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 130: County elections should be the jurisdiction of the county, who should be more connected to the people. I urge you to oppose outlawing hand counting ballots. It is a needed check in our system. (Regina Goehring)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 131: Strongly urge the state to not propagate the proposed regulations on hand counting ballots. It is of no benefit to limit local district’s freedoms. If a district wants to hand count ballots for reasons that seem good, it isn’t helpful to limit that option. The state should give districts the maximum freedom to either electronically or manually count ballots. Oppose the proposed regulations that restrict the freedom of the people conducting elections. (Ian Martin)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 132: Registered voter and citizen in Shasta County. Attended the public hearing scheduled by the Secretary of State on July 3. The 30-day public notice of the hearing was not given and scheduling on a holiday weekend was in bad taste because many cancelled plans to attend or could not attend the public hearing. During the public hearing, 24 speakers were opposed to the proposed regulations and 3 speakers were in support of the proposed regulations. One assistant deputy of state was present for the public hearing and per the Brown Act is in violation of not having a majority of its members of the agency in attendance. State employees were present however they are not considered members of a public agency per the Brown Act, to constitute a quorum.

The Secretary of State has no authority to adopt these proposed regulations. The proposed Elections Code section 15270.2 in Assembly Bill 969, authorized the Secretary of State to adopt specific regulations on a manual tally, did not exist on May 19, when the Secretary of State

proposed these regulations. If the Secretary of State wished to propose regulations on hand counting, she needed to wait until Assembly Bill 969 passes and resubmit the proposed regulations, restarting the 45-day notice that will contain substantial changes, such as new statutory authorities, evidence why the regulations are needed, and less burdensome alternatives and a fiscal impact analysis.

If Assembly Bill 969 is signed into law, the proposed regulation section 20298(a)(1) will be in direct conflict with the newly implemented law.

Hand counting has been done successfully and frugally for the majority of the state's existence and is well within the local governments authority to do so. Confidence in the Shasta County election system is at an all time low and the Board of Supervisors are doing what the people of Shasta County want. The state is trying to strip authority and control the elections process, despite clear evidence of fraud with the Dominion voting system and machine counting across the country. The constitution and state laws give authority to local government and has done so for decades. The state wants to destroy our laws and constitution with its rogue, unlawful actions, which is unacceptable. (Kari Chilson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring "that elections are efficiently conducted and that state election laws are enforced."

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. "In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation." Additionally, the Brown Act applies to "local agencies," meaning a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual

count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 133: The one percent manual tally is the only process within the elections cycle which verifies the accuracy of the voting systems used in the election. It is imperative that the process be open to the public, transparent, complete, accessible, auditable, and timely to gain the trust of the public. Open to the public means public disclosure of the voting system tally prior to the selection of the random batches or precincts, and the real time public disclosure of the tally results as they are completed for each batch.

Below are specific amendments or comments for the one percent manual tally sections of the regulations:

1. Section 20312(a)(5) The voting system tabulation data shall be made public by 5 pm the day before any other 1% manual tally' process takes place. Particularly before the selection of the random 1% samples (batches or precincts). The batch or precinct totals shall be in a format such that it can be easily understood by the public and the ROV staff to compare to the manual tally results.

2. Section 20312(a)(6) The CVR data, the batch/precinct totals, log files, ballot images, images associated .sha files, ballot auditmarks, and the paper ballots used in the 1% Manual Tally' shall be preserved, auditable and made available to the public prior to the random selection of batches or precincts. Any ballot tabulations subsequently performed after the preservation of the 1% Manual Tally' shall be made separate and distinct.

3. Section 20312(a)(7) At least 99% of the total election shall be included in the 1% Manual Tally. If this is not done, then a separate 1% Manual Tally will be conducted, in accordance with the rules and regulations governing the initial manual tally, on the remaining once the count is complete for the election.

Any breach of the preservation of the 1% Manual Tally data can trigger a complete redo of the 1% Manual tally process.

4. Section 20312(a)(8) 1% Selection and Manual Tally Commencement

4a. Section 20312(a)(8)(A) The process of the random selection should commence at the beginning of the business day, in accordance with the requirements (20313) given in this section. The batches/precinct ballots shall be on site and immediately retrievable for manual tally to commence. There shall be adequate staff available to commence with the tally.

4b. Section 20312(a)(8)(B) Once a batch/precinct is selected, the associated ballots can be retrieved for the count to proceed. It shall not be made necessary for the entire 1% selection process to complete before the retrieval of the associated ballots can be initiated.

5. Section 20312(a)(9) The use of cameras, cell phones, etc. shall be allowed to take pictures of the Manual tally sheets.

6. Section 20312(a)(10) The ROV shall posted images of the tally sheets to the public as soon as they are completed. It is not necessary, in fact discouraged, to verify that tally sheets match the machine counts before posting. The tally sheets and their public images shall be preserved along with the associated CVR, batch/precinct totals and ballots. The CVR, batch/precinct totals and images of the tally sheets shall remain publicly accessible.

7. Section 20312(a)(11) Escalation

7a. Section 20312(a)(11)(A) Should the results of the 1% Manual Tally show an error rate that exceeds Help America Vote Act requirements (1 errored oval in 500,000 scanned), a root-cause investigation shall be conducted.

Example: If the average ballot contains 100 ovals, then a single errored oval would result in 1 in 5,000 ballots being in error.

8. Section 20312(a)(11)(B) If the errors are isolated to a faulty tabulator, all the ballots that were scanned through that faulty tabulator shall be rescanned on another tabulator. The batch/precinct totals from the 1% Manual Tally shall be used to confirm that veracity of the new tabulator tally. (John Guerrero)

Response: The Secretary of State acknowledges these comments. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. This suggested amendment was incorporated in part to the proposed regulations. The proposed additional sections were not added; however, Section 20315(a) was amended to state that the elections official conducting a one percent manual tally shall immediately upon conclusion and prior to certifying the results pursuant to Elections Code section 15372, publish a report of results for the one percent manual tally on their website. Additionally, Election Code section 15151(b) requires the elections official to transmit the election results to the Secretary of State every two hours during the semiofficial canvass, commencing after the close of polls on election night. That information is then posted on the Secretary of State's website for the public.

2. The suggested amendment to add Section 20312(a)(6) was not incorporated into the proposed regulations. Pursuant to section 20314(d) the elections official shall establish written procedures to ensure the security, confidentiality, and integrity of any ballot cards, cast vote records, or any other data collected, stored or otherwise used pursuant to this section. Additionally, Elections Code 15370 also requires that after the ballots have been counted, the elections official shall seal the ballots and are not permitted to open them except as permitted under Elections Code sections 15303 and 15304 and in the event of a recount.

3. The suggested amendment to add Section 20312(a)(7) was not incorporated into the proposed regulations. Elections Code section 15360 and section 20313 of the proposed regulations provide all direction on how the precincts and ballots to be counted in the one percent manual tally are selected.

4. The suggested amendment to add Section 20312(a)(8) was not incorporated into the proposed regulations. The election's official provides notice of the date, time and place of the one percent

manual tally pursuant to section 20312(a)(1) and accordance with Elections Code section 15360. The elections official can determine the start time based on a variety of reasons, including adequate resources such as staff, availability of location, and ballot location. The selection of ballots and the conduct of the one percent manual tally is described in detail in section 20313.

5. The suggested amendment to add Section 20312(a)(9) was not incorporated into the proposed regulations. Section 20312 allows the public observation of the one percent manual tally and section 20315 states that the elections official shall publish a report of results for the one percent manual tally on their website immediately upon completion of the one percent manual tally. Pictures of the manual tally sheets are not necessary, as all of the information contained on these sheets will be made available in the election officials report.

6. The suggested amendment to add Section 20312(a)(10) was not incorporated into the proposed regulations. The proposed suggestion is sufficiently covered under Section 20312(a)(2) of the proposed text, which requires the elections official to provide the observers with an oral or written explanation of the one percent manual tally, a written code of conduct for observation, and any documentation they will need for informed and effective observation. Additionally, section 20315 states that the elections official shall publish a report of results for the one percent manual tally on their website immediately upon completion of the one percent manual tally.

7. The suggested amendment to add section 20312(a)(11) was not incorporated into the proposed regulations. Voting systems are tested and certified for use in California elections by the Secretary of State's office pursuant to Elections Code section 19202. The systems are certified against the California Voting Systems Standards (CVSS), and state and federal election laws. The standards set forth for error handling in the CVSS meet or exceed those set by HAVA and the Election Assistance Commission's Voluntary Voting System Guidelines.

8. The suggested amendment to add section 20312(a)(11)(B) was not incorporated into the proposed regulations. Elections Code section 19215 requires that the elections officials report any defects, faults, and failures to the Secretary of State.

As a condition of approval for use of any voting system in California elections, all jurisdictions are required to immediately remove from service any equipment that has been compromised, breached or attempted breach. Additionally, the elections official is required to conduct a one percent manual tally on any votes cast that were tabulated on the device prior to its removal from service as part of the official canvass.

Comment No. 134: Please oppose the proposed hand counting regulations. Many voters are distrustful of the electronic machines involved with the counting of ballots. With cyber attacks and Artificial Intelligence becoming more prevalent, the right to hand counting could become even more important in the future. Why give voters less choice. Please give voters the option of counting ballots by hand. (Bobbi McGinnis)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 135: Please do not remove hand counting of our ballots in the state of California. We the people don't trust you with our voting system here in our state. (Albert Cornejo)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 136: Not sure if the state is trying to get rid of hand counting ballots but hope that the state does not stop hand ballot counting. Would like all machines to be gone, have paper ballots and finish with hand counting the same day. Please keep ballot hand counting. (Melody Irwin)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

In California, all voting is conducted using paper ballots or by certified voting systems that produce a paper ballot.

Comment No. 137: This is a complaint against Secretary of State Shirley Weber for not attending the public hearing set by her office regarding Assembly Bill 969. Many citizens drove a long distance to oppose this interference in local election and her actions are unacceptable and undemocratic. All public hearings should provide means for any citizen to participate from their home county. It is hypocritical for the Legislature to try and impose and interfere with local government.

A 2018 MIT study is not substantial evidence that the proposed regulations are necessary and on the contrary is substantial evidence that the 1% Manual Tally is too small to catch machine errors. The MIT study proves that 1% manual tally historically conducted were subject to error. Mark Kampf further explains in the study that the 25% error was an initial error and once discrepancies were resolved, the error rate was zero. The Secretary of State needs to be honest and not misquote sources.

The Secretary of State goes beyond providing “standards and requirements” by assigning herself a new authority to both require and reject a Manual Tally Plan without providing guidance to the elections official detailing the reasons for her rejection.

Many of the proposed regulations are overly burdensome and obstruct the implementation of Elections Code sections 15270-1528, specifically:

1. Section 20303(f) requiring 10 feet space between tables. This will cause the count to need a large room that the cost and location of a venue will be prohibitive.
2. Section 20299(f)(7)(B) requiring a scale diagram of the counting room layout. Scaled diagrams have to be drawn by an architect or someone with CAD software skills. This will cost the county thousands of dollars, which the Secretary of State has not taken into consideration.
3. Section 20299(d)(2) allowing the Secretary of State to reject the manual tally plan without providing any specific reasons. If the county doesn’t know exactly why the plan is rejected, then they cannot fix it.
4. Section 20299(f)(10) requiring the use of a voting system concurrently with a manual tally is cost and time prohibitive and the Secretary of State has not justified why a full audit using a computerized voting system is necessary.
5. Section 20301(a)(7) and 20303(a)(5) limiting the number of ballot stacks to 25. Because a manual tally form and certificate of performance must be filled out for each stack, this regulation will cause unnecessary delay and result in a bottleneck. The Secretary of State has not accounted for that during a 1% manual tally, stacks of over 200 ballots have been successfully counted.
6. Section 20303(a)(1) requiring the elections official to sequentially serialize each ballot. This is not currently done when ballots are counted with computerized voting systems and it is not done during the 1% manual tally. There is no demonstrated need for this and adding a serial number will cause an unnecessary delay.

The Secretary of State had not considered why the current practice of capturing digital ballot images is not sufficient to keep track of each ballot. Indeed, the ballot images could be automatically assigned serial numbers in their file names. (Crista Munns)

Response: The Secretary of State acknowledges these comments. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. Section 20303(f) was amended to remove the single table requirement and the 10 feet distance between the tables. This amendment is intended to allow for more flexibility in the planning and implementation for the elections official with the selection and setup of central return locations.
2. Subsection 20299(f)(7)(B) was amended based on the submitted comment and a public comment submitted during the public hearing. The language to have “A scale diagram depicting” was removed from the subsection, leaving the requirement to include the planned setup of the manual tally location in the manual tally plan. During the public hearing, the concern was brought up that by requiring a scaled diagram, jurisdictions would need to hire a professional, such as an engineer or architect. The removal of this language is to provide clarity that jurisdictions only need to provide the planned setup of the manual tally location(s) in the manual tally plan.
3. Subsection 20299(d) was amended to require that the Secretary of State provides the elections official with the reasons why a manual tally plan was rejected so that the elections official could revise the manual tally plan and resubmit it a second time to the Secretary of State for approval.
4. Section 20299(f)(10) requires the elections officials to provide a detailed description of how the manual tally will work in conjunction with the use of the voting system. This description shall include at a minimum how ballot set up, accessible voting devices, and tabulation will work together in accordance with the certified voting system use procedures as well as in compliance with Elections Code section 15003.

With regards to the commentors question about requiring a full audit on the manual tally, current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. In the proposed regulations the use of a certified voting system tabulator, pursuant to Elections Code section 19202, is a comprehensive and accurate method of verification of the manual tally election results. The use of a certified voting system tabulator in the auditing process of the manual tally is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

5. The requirement to not exceed stacks of 25 ballots in section 20303(a)(5) has remained unchanged. The process of counting ballots is labor intensive and hand counters can become tired and make errors. The 25-ballot stack limitation is designed to help lower the chances of human error when counting ballots.
6. 20303(a)(1) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 138: Strongly oppose Assembly Bill 969. The bill is a de-facto statement of war from the State against self-governing county governments, by implying that the counties cannot be trusted to ensure a viable plan without oppressive State law that removes options for voters.

Has provided some talking points to use to oppose state regulations on how counties can count ballots:

1. By retaliating against Shasta County, the recklessness of this bill language presented will suppress thousands of Californians with disabilities from voting that rely on manual ballot counting for their voices to be heard that cannot use the Dominion tabulator and need assistance.
2. Not only will Assembly Bill 969 discriminate against vulnerable voters of our communities, rural communities, this bill also interferes and goes against Title 52, subtitle I, Chapter 101, Section 10101 and 10102.
3. Californians want transparency in our elections. The Legislators intruding in county affairs to this extent, especially given recent developments, will lead to mistrust with the State in the voting process.
4. Shasta County was diligent in their assurance that the absolute opposite would be the case and is following the many positive examples of counties and countries that have preceded them in similar decisions.
5. Some counties and countries have had positive similar decisions like Shasta County including Canada, England, Germany, Italy, Netherlands, and France, among other allied nations. They documented severe election fraud and manipulation as a result of employing the same election systems now in use in California and across the U.S. and chose to eliminate machine involvement in their elections. These nations now conduct their elections free of electronic systems, with same day, verifiable and trusted results.

In opposition of Assembly Bill 969 and any state proposed regulations that restrict local governance to have their own voting system. (Corrie Rodriguez)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 139: The changes are not adequate and the previous comments need to be adopted as stated at <http://votewell.net/cacount.pdf>. The previous changes need to be adopted to avoid arbitrary and unsupportable differences among initial counts, 1% counts and recounts, and limits on them, in accord with California laws, to ensure accurate cumulations, and to ensure a reliable chain of custody.

Section 20281-20283 – The commenter reiterates previous comments from 2022.

Section 20299(a), (b), (d) and (e) The commenter suggests if there is a Manual Tally Plan, the status updates be posted on the County and Secretary of State websites.

Section 20299(c) The commenter states that “sufficient detail to fully describe each element” is unreasonably vague.

Section 20299(f)(6) and (14) The commenter believes that the use of cell phones, cameras, and audio and video recording devices should be allowed to dispel misinformation.

Section 20299(f)(8) and 20303(a) The commenter has concerns regarding the numbering and imaging of each ballot.

Section 20299(f)(13) The commenter suggests that the daily changes of pen colors, should also be done in the 1% manual tallies and recounts.

Section 20301(a)(11) The commenter suggests that the different color watermarks each day is a security risk.

Section 20299(f)(11), (15) and 20305(a)(3) The commenter states that it is not clear that the law requires machine auditing any hand-counted ballots.

The commenter suggests a reconciliation method.

Section 20300(c) The commenter suggests that a 4-person counting board have no more than two members of the same party preference.

Section 20301(a)(7) The commenter suggests that the same approach for the manual tally be used for the 1%.

Section 20303(a)(8) The commenter likes the concept but thinks that it seems hard to avoid mistakes when tallying single votes for each candidate and overvotes on the same sheet.

Section 20303(d) The commenter inquires why the use of medical style exam gloves is not required for 1% manual tallies and recounts.

Sections 20303(i), 20372(g), and 20373(g) The commenter states that the first section requires a re-tally, however the latter two allow recount boards to correct simple mistakes without a re-tally.

Section 20303(m)(2) The commenter states the tally method is error-prone and the rule should also apply to the 1% manual tallies and recounts.

Section 20303(m)(3) The commenter states that tallying one contest at a time before moving to the next contest is rarely done. The commenter suggests applying proposed rule 20303(g).

Section 20303(j) The commenter states this provision takes the supervisor away from other duties.

Section 20358(b) The commenter states this provision is another diversion for the supervisor.

Section 20304(a) The commenter provides an approach for the cumulating boards to compile election totals.

Section 20304(b) The commenter suggests that the Secretary of State does not have the authority to control the totaling process.

Section 20310 The commenter believes the sample selection allowed is too early in the process.

Section 20315(b)(12) The commenter supports this requirement.

Section 20311(f) The commenter suggests that there be additional posting requirements of the public notice.

Section 20312(a)(4) The commenters suggests that webcams be allowed to focus on the ballots, as the current Elections Code that authorizes 10 non-party observers plus 2 per party, causes crowding.

Section 20312(b) The commenter acknowledges that observers can ask questions, but states that Elections Code section 2300(a)(9)(B) allows observers the right to get answers and should be included in the rules.

Section 20313(b)(2)(B) and (C) The commenter suggests that this provision gives very uneven probabilities and suggests adopting the method suggested by the California Voter Foundation, Verified Voting, California Common Cause and the Brennan Center.

Section 20314(c) The commenter states that the seals are unreliable and can be breached by children.

Section 20314(d) The commenter suggests that this provision over-promises and that the ballots selected for the 1% manual tally, should be compared publicly to the election machines' original ballot images.

Section 20353(c) The commenter suggests the change from shall to may, should change back to require copies.

Section 20354(a) and (b) The commenter suggests the rules should let the requester know reported vote totals by batch before the initial choices of batches or allows changes without approval.

Section 20358 The commenter suggests the 4-member board is an arbitrary limit on local discretion and a 5th member should be added.

Section 20361 The commenter suggests that delegating each county to have its own policies in place regarding recording devices will lead to arguments and unequal access.

Section 20370(b) The commenter suggests clarifying that the provisions allowed in Elections Code section 15627(a) for recounts, "by means of the voting system used originally," be allowed, so that the requester could potential conduct an independent analysis using independent software.

Section 20372(a) The commenter suggests that the sorting method suggested by this provision is less accurate than read and tally.

(Paul Burke)

Response: The Secretary of State acknowledges these comments and appreciates the time given to review and provide public comment on the proposed regulations. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

Section 20281-20283 – The suggested modification was not made to the proposed regulations. This is one of many steps taken to make certain the process of counting ballots is consistent, secure, accurate and timely.

Section 20299(a), (b), (d) and (e) This suggested amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion; however, the Secretary of State does not want to limit the means in which the elections official provides a status update for the implementation of the Manual Tally Plan. An election official could choose to provide an update to the Secretary of State verbally, via an in-person and virtual meeting. While the Secretary of State is requiring regular check-ins with the elections official to ensure the manual tally plan is being implemented on time, requiring the elections officials to post each check in would pull resources away from the actual implementation of the manual tally plan.

Section 20299(c) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20299(f)(6) and (14) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20299(f)(8) and 20303(a) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20299(f)(13) A modification was not made. Elections officials have vast experience in conducting one percent manual tallies and recounts, and thus the methods, practices, and procedures are tried and true. Manually counting ballots on a larger scale does not currently have standardized processes and procedures. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20301(a)(11) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20299(f)(11), (15) and 20305(a)(3) Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. This condition is necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

The commenter suggests a reconciliation method. However, the method selected by the Secretary of State was done so after data gathering and interviews with elections officials.

Section 20300(c) It may not be feasible for an elections official to have no more than two members of the same party preference, if there are not enough persons that apply that meet that threshold criteria. For this reason, the Secretary of State extends the flexibility to the elections official, if feasible.

Section 20301(a)(7) A modification was not made. Elections officials have vast experience in conducting one percent manual tallies and recounts, and thus the methods, practices, and procedures are tried and true. Manually counting ballots on a larger scale does not currently have standardized processes and procedures. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20303(a)(8) A modification was not made. Manually counting ballots on a larger scale does not currently have standardized processes and procedures. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20303(d) A modification was not made. Permanent elections staff perform the functions of conducting the one percent manual tally and recounts. The manual tally staff can potentially reach well over a thousand people, of which no jurisdiction in California has that number of staff on standby. Manually counting ballots on a larger scale does not currently have standardized processes and procedures. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Sections 20303(i), 20372(g), and 20373(g) A modification was not made. Permanent elections staff perform the functions of conducting the one percent manual tally and recounts. The manual tally staff can potentially reach well over a thousand people, of which no jurisdiction in California has that number of staff on standby. Manually counting ballots on a larger scale does not currently have standardized processes and procedures. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20303(m)(2) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20303(m)(3) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20303(j) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20358(b) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20304(a) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

Section 20304(b) A modification was not made. This is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Section 20310 A modification was not made. This section aligns with Elections Code section 15360(d).

Section 20315(b)(12) The Secretary of State appreciates this comment.

Section 20311(f) A modification was not made. Election’s officials may have limited resources, including staff, to handle more than two methods of public notice.

Section 20312(a)(4) A modification was not made. Election’s officials may have limited resources, including funding and staff to implement web cameras.

Section 20312(b) A modification was not made. Election’s officials are expected to follow all provisions of the Elections code, including 2300(a)(9)(B), however, as stated in this subsection the questions must not interfere with the conduct of the one percent manual tally.

Section 20313(b)(2)(B) and (C) The method selected by the Secretary of State was done so after data gathering and interviews with elections officials.

Section 20314(c) A modification was not made. Tamper evident seals are meant to provide evidence of intrusion, not prevent it. Elections officials also have other security measures in place to mitigate the likelihood of tampering with the ballots. As a condition of approval for use of any voting system in California elections, all jurisdictions are required to immediately remove from service any equipment that has been compromised, breached or attempted breach. Additionally, the elections official is required to conduct a one percent manual tally on any votes cast that were tabulated on the device prior to its removal from service as part of the official canvass.

Section 20314(d) While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Section 20353(c) A modification was not made. In this instance, “shall” was changed to “may,” as the additional inclusion of the Public Records Act, may not allow for the photocopying, photography, or videotaping of some relevant materials.

Section 20354(a) and (b) A modification was not made. The election’s official should have discretion to determine the feasibility of such requests.

Section 20358 A modification was not made. The number is not arbitrarily set, but in alignment with Elections Code section 15625.

Section 20361 A modification was not made. Election’s officials may have limited resources, including funding and staff, and have the authority to run their respective day-to-day operations.

Section 20370(b) A modification was not made. The use of uncertified hardware, software, or firmware for tabulation is prohibited by Elections Code section 19202.

Section 20372(a) A modification was not made. Elections officials are responsible for the conduct of recounts in their respective jurisdictions. There were no concerns about this method, expressed by elections officials, when using this method.

Comment No. 140: Strongly oppose Assembly Bill 969. The bill removes the decision-making about voting affairs from local counties and put it into the hands of the State. It prevents self-governance and prevents the Shasta Board of Supervisors, who are elected by the people, from making decisions on voting procedures.

Specific concerns with the law requiring all counties to use voting machines to count votes. This is after Shasta County voted to count ballots by hand. There is evidence that the voting machines and tabulators can be hacked and votes changed and in some areas of the county did not function properly. Many citizens want free and fair, transparent elections and voting machines do not offer that. Ballots in the past were counted by hand at a precinct and results were known on election night, unlike now when it takes months.

Many other countries now use paper ballots only for elections, such as Canada, England, France, Italy, Netherlands, and Germany. They do same day voting and had previously found fraud and manipulations in using the very systems that are used here in the United States. Strongly oppose Assembly Bill 969. (Claire Dias)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 141: On July 3, 2023, a public comments meeting regarding Assembly Bill 969 was held. This was poorly publicized and caused many individuals to who would have attended to not be able to do so. Multiple attendees found it interesting that they were required to show ID to access the state building to attend the public hearing when the State legislature, controlled by the Democratic party, refuses to require bare minimum voter ID requirements.

It is our understanding of the state constitution that an elected official must be present at a public comments meeting. Ms. Shirley Weber did not attend the meeting and there were no elected state officials identified as present. Therefore, the public comments meeting is in violation and another public comments meeting must be scheduled. And this time it must be well advertised on

the SOS website at a minimum. If Ms. Weber cannot attend, one of the legislators who are promoting this bill (Assembly Bill 969) should attend the meeting.

The bill as written place punishing undue financial and legal pressures on the individual counties. Please vote no on Assembly Bill 969 or even better drop the bill from consideration. This bill is a power grab meant to impose election mandate. If passed, Assembly Bill 969 will serve to cause further anger and distrust by California residents who know that out elections are not secure, free, or fair. Our elections use inscrutable and expensive elections systems that lack protections from manipulations and cannot produce full elections results prior to 30 days after an election.

Assembly Bill 969 removes any election model other than the one that is fully reliant on the very technology that people throughout the world know to be manipulatable and unreliable. The message of Assembly Bill 969 is that there is something to hide and validates that election fraud and manipulation is real and systemic. The little people (voters) are being told to shut up by the state politicians and if these assertions and suspicions are incorrect, state legislators will prove it by ending Assembly Bill 969 and supporting local counties.

The California legislature would do well to propose appropriate and necessary election-related legislation that would require voter ID and proof of legal status, limit mail in ballots to those who truly need them, eliminate machine voting of any kind and hand count ballots, and require voter registration to be submitted by 2 weeks prior to any and every election. (Cynthia Cuevas)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 142: The comment submitted is the same comment submitted above in Comments No.138. (Katherine McBride)

Response: Please see response above to Comment No. 138.

Comment No. 143: Oppose Assembly Bill 969 and the proposed regulations. Assembly Bill 969 is a de-facto declaration of war by the state on the self-governing county governments by implying that the counties cannot conduct an election without state law. Assembly Bill 969 is in retaliation against Shasta County and will suppress and challenge thousands of Californians with disabilities from voting that rely on manual ballot counting systems. Voters that are mentally challenged may not be able to use the Dominion tabulator and would require assistance.

Assembly Bill 969 will discriminate against vulnerable voters of the community and contradicts the language of Title 52, subtitle 1 &2, chapter 101, section 10101 and 10102 of the U.S. Constitution. Californians demand transparency in their elections and the legislators are intruding on county affairs, which will lead to more voter distrust with state and federal elections. Shasta County is following the positive example of counties and countries that have preceded them in similar decisions, such as Canada, England, Germany, Italy, Netherlands, and France. These countries have documented severe election fraud and manipulation as a result of employing the same election systems used in California and across the U.S. and have eliminated machine involvement in their elections. Do not restrict local governance and say no to Assembly Bill 969. (Thomas A. Weinberg)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Federal law under the Help America Vote Act as well as state law under Elections Code section 19240 require that a certified voting system be provided for accessibly for voters with disabilities for use in all California elections and that at least one voting unit shall be provided in each polling place.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 144: The Secretary of State works for the people not the state government. It is a constitutional right for each U.S. citizen to vote. All the regulations, bill, amendments, etc are making it harder to prevent fraud and gain transparency, which is what citizens of this state need. It is ironic that people need to show ID to enter the Secretary of State building and not to vote. Also upset that Secretary Weber scheduled the public hearing last minute and in the middle of a holiday weekend, then didn't show up. Since there was no elected official present during the public hearing, it was invalid. Chapter 4.7 describes the mandatory One Percent manual tally required under Elections Code 15360 and goes into great detail on how precincts and ballots are drawn for tally. Chapter 4.8 described the procedures to be followed for a manual recount. It is left to the counties discretion on how to conduct the One Percent manual tally and the recount. Why does the Secretary of State feel the need to specify in detail the procedures for conducting the manual counting of ballots. Smaller counties do not need the same procedures are larger counties and the regulations specify a process instead of an objective. Counting by hand, even if VBM ballots must be distributed, is a low cost and transparent way to count ballots that ensures public trust and is suitable for all counties of all sizes. Manual hand counting offers better chain

of custody, is more resistant to election manipulation, is easier to audit and there are volunteers motivated to do a good job.

There is a proper use for machine counting as a supplement to hand counting. Any discrepancy between the hand and machine count should indicate the need for a recall. The two methods should be considered complementary rather than competitive, since both systems have small and comparable error rates. Correcting hand counting error rates are easier than machine error rate, which are more difficult to detect, correct and understand. Using machines for ballot counting requires the public to blindly trust the system while hand counting allows everything to be visible.

The proposed regulations should be rejected, and the counties should be free to develop their own methods suitable for their situations. Focus should be instead on using machines to cross-check hand counting and supporting effective audits of elections. The Secretary of State should focus on devising methods to detect and prevent fraud in the VBM system, fixing the voter registration system, eliminate dropboxes, universal vote by mail, and other fraud promoting elements of the current election system. Fraud free and transparent elections should be the objective of these regulations. (Carla Heune)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. "In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation."

Comment No. 145: Stop Assembly Bill 969 from going through, we need hand counting to prevent cheating. (Richard Tompkins)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 146: The comment submitted is the same comment submitted above in Comment No. 121. (Laura Hobbs)

Response: Please see the response above to comment No. 121.

Comment No. 147: Voter is against Assembly Bill 969. We need hand ballot counting without machines to prevent cheating and election interference foreign and domestic. (Cindy Faeth)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 148: Do not eliminate hand counting of ballots. (Pat Croft)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 149:

1. Review and implement the 87 recommendations of the 2005 Carter Baker Commission Report on Election Integrity.
2. Publish all election materials including ballots in English.
3. Eliminate ALL Vote-by-Mail provisions.
4. Make election ONE DAY, not an election season.
5. Eliminate ALL electronic voting machines and use paper ballots instead.
6. Do not use ERIC for any function dealing with voter registration data.
7. The state has a responsibility to run fair, transparent, secure elections that cannot be interfered with by foreign or domestic operatives. (James Rogers)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 150: Vote no on Assembly Bill 969. (Pat Croft)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 151: I express a strong objection to your office of the Secretary of State implementing these proposed regulatory actions. The proposed changes would further erode local control of the election process in a one-size-fits-all manner that does not take into consideration local sensibilities or realities. Local control should remain local within the counties to not disenfranchise voters. The proposed regulations would further distance the peoples from the governing process and that is unconstitutional. (Sandra Marquez)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 152: I would like to voice my opposition to the eliminating of hand counting election ballots. It is my understanding that it is possible to complete the task without the use of mechanized counting systems. Counting the ballots by hand also affords more opportunity for the electorate to volunteer and become part of the system which is after all for "We the people" (Phyllis Marie Carvalho)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 153: I am writing to oppose any regulation that would infringe upon the ability of the local registrars of voters to hand count ballots. This is a local matter, and if it is done with sufficient safeguards, should not be infringed by the state. (Gregory P. Goehring)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 154: I strongly oppose the Secretary of State office implementing the proposed regulatory actions for ballot counting. The proposed changes will further erode local control of the election process in a one-size-fits-all manner that does not take into consideration, local, sensibilities or realities. Local control should remain local within the county's do not disenfranchise voters. (Deborah Grinder)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 155: I most strongly oppose the proposed regulations and request that the California Secretary of State reject the proposed modifications of regulations to CCR Title 2 Division 7 for Uniform Vote Counting Standards for the following reasons:

Disproportionate and discriminatory effect

The largest counties of California are more than 1000 times the population of registered voters as that of the smallest counties and have correspondingly more resources. Over half the counties have fewer than 100,000 registered voters. Yet all these counties would be subject to the same overhead requirements regarding hand counting of ballots.

Proposed regulations reduce election transparency

Overspecification precludes use of better and more appropriate methods

Specification of detailed methods and procedures is a common error in regulatory proposals. It

False justification for adoption

The State only cites three studies showing the errors present in certain approaches to hand counting, The State must present a more comprehensive and balanced justification before contemplating any regulations.

Non-uniform application

The regulations also discuss two additional hand counts of ballots, a recount, and a 1 percent sample count. The proposed regulations do not appear to apply to those counts, despite being essential components of assuring a fair and accurate election result. For these reasons and more, I request that the Secretary of State reject the proposed regulations regarding hand counting of ballots. (David Robb)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

The referenced information in the Initial Statement of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

Comment No. 156: The Secretary of State does not have the power to regulate election code which is defined in California Election Code 15270. Additionally, per GOV 11340/1(a) this established law is enforced to reduce the number of administrative regulations and provide the quality of elections to hold vote counting by hand. Hand counting of ballots is expressly authorized by the California election code as referenced above. It reduces the time to achieve election results which technology has proven to be ineffective, as it has added weeks or even months for certified results. It would also be a significant cost savings for the State already suffering with over 33 billion dollars in deficits and potential for even greater risks of defaults. Therefore, it is my request these comments be reviewed and amended to reflect that hand counting is the most transparent and a legal established procedure to be used in the Election system. (Cheryl Frink)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 157: I am in strong opposition to the Secretary of State office implementing the proposed regulatory actions for ballot counting! The proposed changes will further erode local control of the election process in a one-size-fits-all manner that does not take into consideration, local, sensibilities or realities. Local control should remain local within the county's to not disenfranchise voters. (Sharina Latch)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 158: I strongly oppose the elimination of hand counting ballots. It is an important part of the election process! (B. Boynton)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 159: I strongly oppose bill Assembly Bill 969. The proposed changes will further erode local control of the election process in a one-size-fits-all manner that does not take into consideration, local, sensibilities or realities. Local control should remain local within the county's and not disenfranchise voters. (Annaliese Nistor)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 160:

1. Regarding general notion of hand counts:

There is a difference between hand counts when performed to validate or check the results of a voting system vs. using hand counting as the primary means to create an independent result. In the former case, counts used in the 1% Manual Tally for example, are compared with the machine result and frequently batches are recounted to reduce manual counting errors. This is in contrast with hand counting as the primary means to create an independent result. Such hand counting needs a way to control human errors, which are quite common. One strategy is to use competitive teams that can tally and check their results against each other. We support the availability of ballot images and cast vote records. These are routinely made available by San Francisco County, and all counties should follow suit. Further, we support that counties can make use of tabulation audits using ballot Images and cast vote records.

2. We support that the public must be able to video record and photograph counting operations. We must differentiate here between the use of these devices by the counting staff and the use by public observers.

Public observers should be allowed to use video or still-photo recording devices to document what they see so they can ask questions and gather evidence. Counting staff, on the other hand, must not be distracted by using cell phone during the counting process.

Changing colors of pens is based on the theory that there is risk that tally teams cannot be trusted. In our observations of hand tallies, we believe this fear is misplaced, particularly if there is sufficient monitoring. Again, we believe video recording by observers can help avoid any malicious behavior by tally teams. Also, some pen colors do not reproduce well when scanned.

Regarding sheet colors:

We believe it is better to provide for improved observation by the public and to allow video recording to reduce any risk of that type. Changing colors of the sheets each day or pen colors also means you have to monitor and report that the colors are correct. If varied colors are used, then a procedure will need to be defined to inspect the colors and report on them.

3. Regarding Audits of Hand Counts:

If the ballots are not already counted by the certified voting system being used, configuring a different voting system to count those ballots is similar to performing a ballot-image audit but a different vendor voting system is not able to process ballots from a different vendor, and such counts require a significant amount of configuration and testing similar to the Logic and Accuracy test currently being used. Therefore, checking hand counts using a machine is not viable because configuring the machine is far harder than this provision implies.

4. "Cumulation" vs. "Accumulation"

We believe the term should be accumulate rather than cumulate. Cumulative refers to amassing or building up over time; growing by successive additions. Accumulative refers to the result of accumulating. It also implies an acquisitiveness or penchant for acquiring or accumulating things. Thus, a cumulative final exam, includes information from the entire course. Accumulate actually means to add up.

5. 1% Manual Tally

With the increase of the use of permanent vote-by-mail voting where now we see about 90% of the voters using that method, there are now sometimes nearly half of the ballots still uncounted on election day, and thereby can be excluded from the 1% Manual Tally audit. These late-arriving (but still timely) ballots should be included in the random sampling process and thereby included in the 1% Manual Tally. Excluding nearly half of the ballots from the random selection process is inexcusable. The changes to the election law by AB-840 should be reversed and VBM ballots included in the 1% Manual Tally audit in all counties.

6. Random Selection

We suggest a standard method in how random numbers are selected by all counties. They should be selected by rolling one colored 10-sided die for each digit simultaneously which selects the precincts or batches from a sequentially numbered list. If the number does not exist, the dice are rolled again. This should be live-streamed in a public ceremony and video cameras must be allowed. When batches are selected in a batch-sampling method, then it is best if they are weighted by size, if there is significant variation in size. Sampling a batch of 1 ballot is not the same as sampling a batch of 3000. Weighted sampling is done by allocating ranges of numbers to each batch proportional to the size of each batch and rolling dice as described above, and then choosing the batch if the number falls in the range. The calculation of the ranges can be done with a spreadsheet that lists the sizes of each batch¹ and then divide the size by say 100, truncate to an integer and add 11 thereby providing a number proportional to the size of each batch in 100s¹ and then calculating ranges using this value to start the current range based on the end of the prior range. Selecting numbers from a hat is problematic because it is unclear if all the

numbers are in the hat and sleight of hand is relatively easy to use to select some folded or unfolded pieces of paper¹ for example.

7. Sorting in Manual Recounts

Proposed rule 20372(a) requires sorting ballots by precincts and candidates and counting the stacks. Research shows that the "sort and stack" method is less accurate than the "read and tally" method. It is also less observable and does not provide hard evidence of the tally results. Therefore, the primary method for counting should be by using tally sheets using the read and tally method. The sort and stack method results in the ballots being reordered, which means it is not possible to track down differences between tally teams. (Ray Lutz)

Response: The Secretary of State acknowledges these comments and appreciates the time given to review and provide public comment on the proposed regulations. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. A modification was not made. The counting boards are appointed as prescribed in Elections Code section 15102, which states that the elections official or authorized deputy shall segregate the persons employed to count the ballots into counting boards. These boards shall be deemed to be precinct boards and are subject to all laws governing precinct boards where ballots are counted at the polling place.
2. A modification was not made. Pursuant to 20299(f)(13), the elections official is responsible for the providing and assigning the color of the writing device. This is necessary to maintain the integrity of the manual tally process.
3. A modification was not made. There is no current statute to provide guidance on how to conduct an audit of a full manual tally of votes. The proposed regulations are necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

The Secretary of State has determined that a manual tally audit of a full manual tally would be redundant and not adequate. In the proposed regulations the use of a certified voting system tabulator, pursuant to Elections Code section 19202, is a comprehensive and accurate method of verification of the manual tally election results. The use of a certified voting system tabulator in the auditing process of the manual tally is one of many steps taken to make certain the process of manually counting ballots is consistent, secure, accurate and timely.

4. A modification was not made. The word "cumulate" adequately covers the purposes of these regulations. In context, Merriam-Webster defines cumulative as increasing by successive additions. Elections officials are required to report results on a continuous basis.
5. A modification was not made. Elections Code section 15360(1)(B)(ii) states that an elections official, at his or her discretion, selects additional precincts, which may include vote by mail ballots.
6. A modification was not made. The random selection method incorporated in the proposed text was done so after consultation with election officials. Elections officials may not have the

resources to host a live-stream, however, the elections official must make the process public, including observation of the 1% manual tally pursuant to section 20312.

7. A modification was not made. The commenter did not provide enough information regarding the alternative method; therefore, the proposed amendment cannot be meaningfully responded to.

Comment No. 161: The proposed regulations do not appear to be necessary, since there are already approved regulations that authorize hand counting of paper ballots: California Election Code, Title 2, Division, 15, Chapter 3, Article 4, Section 15270 et seq, and which contain established procedures that were used by all 58 counties before the introduction of electronic voting systems. In addition, the procedure is still being used today to perform the 1 % Manual Tally.

California Government Code, Title 2, Division 3, Part 1, Chapter 3.5, Article 5, Section 11346.2(b)(1) states: "A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. These benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required." The Secretary of State's (SOS) office has not provided a statement of reasons for why a full machine audit of a hand count is necessary or justified, nor why the current practice of a 1 % Manual Tally of the results would not be sufficient for certification/auditing purposes.

The proposed regulations should be changed to establish that the primary means of certification/auditing shall be hand counting, not electronic.

In addition, establishment and adoption of the proposed regulations takes an already approved and regulated hand counting method and changes it, see Sections 15270-15281 for example, once again making it confusing, complicated, and unnecessarily onerous. These sections should be removed.

Section 20303(a)(4) of the proposed regulations states: "Further sort the ballots by qualified political party and nonpartisan ballots if the ballots are for a presidential primary election." Ballots are already sorted by precinct in our County. To then further sort them by political party just creates an addition layer of potential ballot manipulation and fraud. What is the intended purpose of this section?

Section 20303(b) of the proposed regulations states: "The elections official may process all ballots through a tabulator certified pursuant to Elections Code section 19202, prior to beginning

the manual tally." What is the purpose of doing this, other than to create more work for the County Registrars? (Ronnean Lund)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

Current state law, Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations are intended to provide clear and concise guidance on how to conduct a full manual tally of ballots.

Additionally, current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. These proposed regulations are necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

The conduct of a one percent manual tally is not the same as conducting a full manual tally of all the votes cast in an election. The number of ballots cast in a regular election is exponentially greater than those used in a manual tally and since the Elections Code does not offer guidance on how to audit a full manual tally, section 20305 provides that necessary guidance for the elections official for a much larger number of ballots

Section 20303(a)(4) requires that the ballots be sorted by qualified political party and nonpartisan ballots, if the ballots are for a presidential primary election. The purpose of this specification is to make it easier on the counting boards for tally the votes for each office. During a presidential primary election, each of the qualified political party ballots have different candidates list, example the Democratic ballot has different candidates than the Republican or Peace and Freedom ballots. By separating the ballots by qualified political parties, the counting board will be able to tally each contest easier on the manual tally forms and not have to flip back and forth between various forms to try and tally all the candidates from the six qualified political parties. Elections Code section 15373 requires that results of the vote shall be shown by precinct.

Section 20303(b) states that the elections official may process all the ballots through a certified tabulator prior to beginning the manual tally. The purpose of this section is to clarify that the elections officials may, as part of their procedures, process all ballots through a tabulator. This process can be done to conduct the serialization of the ballots and capture ballot images prior to the manual tally.

Comment No. 162: Counties are doing a great job overseeing elections and don't want or need Sacramento getting involved. We want to maintain local control! California has 58 counties with great diversities, one size does not fit all. Counties have a better feel for what works best for their voters. Additionally, every eligible voter already receives a mail-in ballot with a postage paid return envelope. As the constitution clearly states, every eligible voter is provided easy access to

voting. We the voters want to keep our local election control. As a voter, I want you to vote NO or oppose Assembly Bill 969. (Michelle O'Brien)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The proposed regulation do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 163: I oppose Assembly Bill 969. (Eric Eisenhammer)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 164: Assembly Bill 969 will prohibit manual vote counts in election jurisdictions with more than 1,000 eligible registered voters, essentially leaving initial manual vote count illegal in a majority of California elections. This Bill will very likely pass the Senate Appropriations Commission next week, pass on the Senate Floor and be signed by the Governor. Assembly Bill 969 shatters local self-governance, leaving every single aspect of your Ballot Counting Proposed Regulations regarding initial manual vote counts, effectively moot. With this understanding, the 1% Manual Tally remains the most critical issue regarding these Proposed Regulations.

First: A Section explaining the details of exactly "How" the Dominion ICX QR code Ballots are audited within the 1% Tally, needs to be added to these regulations. For example, observers should be able to physically see the ICX ballot image. The QR code, "double coding" is not even visible through a smart phone QR scanner app. The observers should be able to verify that the QR code reflects exactly the text of the voter's choices found on each ICX paper ballot.

Second: Election officials should be required to provide observers with "any printed documents" and "access to relevant aggregate documentation" they will need for informed and effective observation. This includes the CVR data, the batch and/or precinct totals and log files. Additionally, observers should be able to see the ballot images of the 1% manual tally as they are being tabulated via a live time monitor. These images should be accessible to both the in-person observers and on-line observers.

Third: The initial voting tabulation should be completed by 5pm the day before any 1% Manual Tally processes take place. Random selection of the 1% audit tally batches including the loading of the batch numbers in the hopper, should be done in the presence of election observers at the beginning of the business day. Election observers should be given a spreadsheet of "ALL" batch numbers prior to selection of the 1% Manual Tally batches.

Fourth: A sample of ALL races in an election should be included in the '1% Manual Tally'. All batches shall be sealed and immediately retrievable. All ballot handling shall be made observable and challengeable by the public.

Fifth: The ROV shall post tally sheet images on site and on their website so the public can view immediately after completion. Tally sheets SHOULD NOT BE matched to the machine counts before posting. Cameras, cell phones, etc. should be allowed to take pictures of the tally sheets. (Patricia Beebe)

Response: The Secretary of State acknowledges this comment.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

1. The suggested amendment was not incorporated into the proposed regulations. The proposed regulations are designed to be applicable to all elections officials, jurisdictions, and voting systems and are not voting system specific. Voting systems are tested and certified for use in California elections by the Secretary of State's office pursuant to Elections Code section 19202. Section 20312(a)(2) requires the elections official to provide observers with an oral and written explanation of the one percent manual tally, a written code of conduct for observation, and any documentation they will need for informed and effective observation. Section 20312(a)(4) allows the public the opportunity to observe the voters' marks on every tallied ballot.

2. The suggested amendment to add Section 20312(a)(6) was not incorporated into the proposed regulations. Pursuant to section 20314(d) the elections official shall establish written procedures to ensure the security, confidentiality, and integrity of any ballot cards, cast vote records, or any other data collected, stored or otherwise used pursuant to this section. Additionally, Elections Code 15370 also requires that after the ballots have been counted, the elections official shall seal the ballots and are not permitted to open them except as permitted under Elections Code sections 15303 and 15304 and in the event of a recount.

3. The suggested amendment to was not incorporated into the proposed regulations. The election's official provides notice of the date, time and place of the one percent manual tally pursuant to section 20312(a)(1) and accordance with Elections Code section 15360. The elections official can determine the start time based on a variety of reasons, including adequate resources such as staff, availability of location, and ballot location. The selection of ballots and the conduct of the one percent manual tally is described in detail in section 20313.

4. The suggested amendment to was not incorporated into the proposed regulations. Section 20312 allows the public observation of the one percent manual tally and section 20315 states that the elections official shall publish a report of results for the one percent manual tally on their

website immediately upon completion of the one percent manual tally. Pictures of the manual tally sheets are not necessary, as all of the information contained on these sheets will be made available in the election officials report.

Additionally, Elections Code section 15360 and section 20313 of the proposed regulations provide all direction on how the precincts and ballots to be counted in the one percent manual tally are selected.

5. The suggested amendment was not incorporated into the proposed regulations. The proposed suggestion is sufficiently covered under Section 20312(a)(2) of the proposed text, which requires the elections official to provide the observers with an oral or written explanation of the one percent manual tally, a written code of conduct for observation, and any documentation they will need for informed and effective observation. Additionally, section 20315 states that the elections official shall publish a report of results for the one percent manual tally on their website immediately upon completion of the one percent manual tally.

Also, Section 20315(a) was amended to state that the elections official conducting a one percent manual tally shall immediately upon conclusion and prior to certifying the results pursuant to Elections Code section 15372, publish a report of results for the one percent manual tally on their website. Additionally, Election Code section 15151(b) requires the elections official to transmit the election results to the Secretary of State every two hours during the semiofficial canvass, commencing after the close of polls on election night. That information is then posted on the Secretary of State's website for the public.

Comment No. 165: ACLU California Action ("ACLU") submits the following comments and suggestions regarding the proposed Ballot Counting regulations published by your office on May 19, 2023. We submit this letter to endorse and uplift the comments and recommendations submitted to your office on June 30, 2023, by California Voter Foundation, Verified Voting Foundation, The Brennan Center for Justice at New York University School of Law, and California Common Cause ("Partner Letter"). The Partner Letter is attached here and incorporated by reference. (Same letter submitted above in Comment No. 17)

Hand-counting ballots in most modern elections presents inherent risks, including the heightened risk of inaccurate tallies and the erosion of transparency and public confidence in election results. As stated on page 2 of the Partner Letter:

While we support manually examining paper ballots to verify software vote counts as well as the development of these regulations, we are deeply concerned that relying solely on hand counting ballots to tally election results in any, but the smallest jurisdictions will not receive the level of assurance necessary to ensure equal treatment of voters' votes.

ACLU also recognizes that these regulations are being drafted against a shifting backdrop where the state legislature is considering a bill to prohibit hand-counting ballots in jurisdictions over a certain size (Assembly Bill 969) and elections officials are preparing for the statewide 2024 elections and, in some cases, November 2023 local elections. ACLU supports Assembly Bill

969, and we ask that your office plan to timely revise these regulations in the event that Assembly Bill 969 becomes law.

ACLU understands that, based on current state law, some California counties have expressed a desire or intention to move forward with hand-counting ballots in upcoming elections. Therefore, we are grateful that your office is creating regulatory guidance now to support those counties in doing hand-count elections as accurately and effectively as possible. As further detailed in the attached Partner Letter, we recommend that your office further strengthen the regulations by making the following revisions:

3. Require that serial numbers be printed on each ballot and that each ballot to be manually tallied is scanned before tabulation to provide a backup for counting in the event the ballot is damaged or tampered with. (This specific item was the only one that varied from Comment No. 17 above.)

(Carmen-Nicole Cox)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses. With the exception of the summarized introduction above and item number 3, the comments submitted are the same as Comment No. 17 above. Please see the response to Comment No. 17.

In response to item 3, section 20299(f)(8) requires the elections officials to provide a detailed description of how the ballots will be prepared for counting including the sequential serialization of the ballots and capturing of ballot images. Additionally, in sections 20303(a)(1) and 20303(a)(2), the elections official is required to serialize the ballots and capture the ballot images prior to beginning the manual tally. Therefore, the submitted comment is already addressed in the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 166: Opposes the regulations and section 20295(b)(1) as they;

1. Do not require the Secretary of State to provide a reason for rejecting a County's Manual Tally Plan,
2. Do not provide counties a mechanism to contest any SOS decision,
3. Reduce public transparency and participation in the counting process,
4. Do not offer significant benefits to the counting process,
5. Further centralizes State control over election processes, remove critical parts of the election process from local control, and

6. Adds unnecessary costs to smaller counties. (Alex Aliferis)

Response: The Secretary of State acknowledges the comment and has made changes to the proposed text of regulations that address one of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses. The remainder of the submitted comments do not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

In response to item 1, section 20299(d) of the regulations has been amended to require the Secretary of State to provide a written list of any deficiencies in a plan if a Manual Tally Plan is rejected.

In response to item 2, per section 20299(d)(1), elections officials have 10 calendar days from the date of the rejection to amend and resubmit the plan to the Secretary of State, providing County's an opportunity to address any reasons for rejecting a Manual Tally Plan.

In response to items 3 through 6, the submitted comments do not directly address any specific adoption, amendment or repeal proposed.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 167: I do not support your proposed regulation to eliminate the hand-counting of votes in our state! (Julie Cruz)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 168: I urge you to enhance, reinforce, and further fortify the existing language in the Election Code so that any extant ambiguity giving the counties' election officials the ability to interpret the Code in a way that lessens their accountability to the voting public will be eliminated.

Currently there is too much "wiggle room" in the Election Code regarding the way the 1% manual tally is conducted, and I can tell you based on personal experience as a volunteer observer putting in over 50 hours at the Registrar of Voters in my county, Alameda, he takes advantage of every opportunity to shirk his responsibilities to the voters as well as to observers/challengers. The 1% manual tally in Alameda County is done very opaquely.

As the last layer of defense for the outcome of an election, the 1% manual tally must be done correctly, transparently, 100% in public, and in alignment with the best interests of the voters before the election is certified. (Cindy Rocha)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 169: The comment submitted is the same comment submitted above in Comment No. 8. (Greg Hendrickson)

Response: Please see the response above to comment No. 8.

Comment No. 170: "I strongly oppose the proposed eliminating voter [sic] by hand!" (Maria Silva)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 171: We strongly oppose the proposed regulation to eliminate the counting of voter ballots by hand. (Debbie Poole)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 172: The comment submitted is the same comment submitted above in Comment No. 8. (Max Kasbar)

Response: Please see the response above to Comment No. 8.

Comment No. 173: The comment submitted is the same comment submitted above in Comment No. 8. (Lisa Hazelton)

Response: Please see the above response to Comment No. 8.

Comment No. 174: Opposes proposed regulations. Has observed the ballot counting processes and has determined that every time a ballot is touched, there is room for error. Votes should be counted at each precinct. This would reduce cost and increase tabulation efficiency. (Rhonda Huesgen)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 175: Opposes proposed regulations. Feels machines can be manipulated. (Sonia Spatola)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 176: Opposes proposed regulations. Does not trust electronic voting systems. Voters should have the right to work with the local government to determine the best course of action. (Scorey Corey)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 177: No comment made. (Rhonda Huesgen)

Response: Incomplete comment submitted. No response necessary.

Comment No. 178: Opposes the proposed regulation. (Vincent Cornejo)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 179: Opposes proposed regulations. (Adam Cornejo)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 180: Opposes proposed regulations. (Leticia Cornejo)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 181: Regarding proposed section 20298 (b)(2), in accordance with Election Code 15101 (a), why can't any jurisdiction that has the "Necessary computer capability" also start hand tallying of vote by mail ballots 29 days before the Election Day as long as they do not release any count before the close on all polls on Election Day?

Regarding proposed section 20299 (a), how will the county submit a "Manual Tally Plan" to the Secretary of State no later than 120 days prior to the date of the elections if the county will likely hold a special election in November 2023?

Regarding proposed section 20299 (d)(2), if the "Manual Tally Plan" is rejected, what authority requires the election official to use hand certified voting system as a back-up?

Regarding proposed section 20299 (e)(2)(C)(i), if the plan is revoked due to insufficient progress in implementation, there would be little incentive for the election official to go forward with the county citizen's desires of hand tallying election ballots.

Regarding proposed section 20299 (f)(7)(A)(B)(12)(14), publicizing details of the manual tally creates security concerns.

Regarding proposed section 20299 (f)(14)(A)(B)(10), please ensure observer rights as written are protected in the regulations. (Bob Holsinger)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

20298(b)(2) Elections Code section 15101(a) is specific to the tabulation of vote by mail ballots using the necessary computer capability, to be tallied by the machine, not manually. The code does not extend the same provisions to a jurisdiction conducting a full manual tally. Elections Code Section 15101(b) is clear regarding jurisdictions not having the necessary computer capability, shall start to process vote by mail ballots at 5 p.m. on the day before the election.

20299(a) Subdivision 20299(a) was modified to decrease the time requirement from 120 days to 80 days prior to the election. This aligns with the timing of final logistics leading up to the conduct of an election. Further subsection (b) was modified to require the Secretary of State approve or reject the Manual Tally Plan, no later than 70 calendar days prior to the date of the election.

20299(d)(2) Subdivision 20299(d) was modified to include the condition that the Secretary of State shall provide in writing a list of any deficiencies in the manual tally plan when issuing a rejection of the initial submission. This is a necessary modification because it requires the Secretary of State to clearly identify issues with the submitted manual tally plan, which in turn provides the elections official with clear guidance on what needs to be modified or addressed in

the resubmission of the manual tally plan. If the elections official cannot remedy the reasons for rejection, the requirement to use a certified voting system will be invoked.

20299(e)(2)(C)(i) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

20299 (f)(7)(A)(B)(12)(14) The Secretary of State acknowledges this comment. The Secretary of State stands firm that the security, integrity and accuracy of the manual tally process is a high priority.

20299 (f)(14)(A)(B)(10) The Secretary of State acknowledges this comment. Observer rights are included in section 20307.

Comment No. 182: Supports the regulations but has provided the following feedback:

1. Allow counties to begin the tabulation process before Election Day. The proposed regulations prohibit tabulation prior to Election Day.
2. Require counties to use a certified voting system to compare manually tallied results. The regulations should be clear that machines are a tool that helps elections official conduct tabulation.
3. Clarify when tabulation can begin as with Elections Code section 15101, which states, “under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election.” If a county is using certified voting equipment to facilitate the manual tally process, then shouldn’t that county also be able to scan voted vote by mail ballots and adjudicate them as normal, so long as tabulation occurs after the close of polls on Election Day? The regulations are not clear as to whether that may happen in the manual tally process.
4. Lower the ceiling of ballots per batch. The regulations provide a ceiling of 25 ballots for every batch provided to a counting board. Ballots contain multiple contests. The more contests there are on a ballot, the longer it takes to manually tally a single ballot. Because California ballots may contain 30 or more contests, each offering several options for voters to choose from, 25 ballots can add up to hundreds or thousands of tick marks per batch. Smaller batches might feel more achievable for counting boards, so I urge you to cap batches at 10-15 ballots per batch.
5. Commentor agrees with the Shasta County Registrar’s assessment of these regulations and so incorporate them here by reference.
6. Urge continued working with counties on combatting the misinformation and disinformation around the process of tabulation and reporting of elections results. (Natalie Adona)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. Section 20298(b)(2) states that the elections official conducting a full manual tally may process vote-by-mail ballots received prior to Election Day, such as opening of envelopes and adjudication, beginning at 5:00 p.m. the day before the Election but under no circumstance shall vote-by-mail ballots be counted prior to the close of polls on Election Day pursuant to Elections Code section 15101(b). However, beginning 29 days before the election, the elections official may process vote-by-mail return ballot envelopes, such as signature verification and updating voter history records, pursuant to Elections Code section 15101(a).

2. Sections 20299(f)(10), and 20305 state that the elections official shall use a certified voting system to audit the manual tally results. The suggested comment is already incorporated into the proposed regulations.

3. The proposed regulations address the process for a full manual tally of the votes cast in an election, meaning the results are tabulated by hand. The use of a certified voting system in the manual tally process is for auditing purposes of verifying the results of the manual tally not tabulation of the votes. Additionally, a certified voting system could be used to serialize the ballots and capture ballot images, if applicable. As stated in section 20298(b)(2), the elections official may begin processing the vote by mail ballots, such as verifying signatures, opening envelopes, serializing ballots, and capturing ballot images, therefore, an election official must abide by Election Code section 15101(b), in which no vote-by-mail ballots can be tabulated prior to 5:00 p.m. the day before the Elections.

4. Section 20303(a)(5) states that the ballots shall be sorted into stacks of no more than 25 ballots. This allows for the election official to make the determination if smaller stack of ballots is needed and allows for flexibility. Therefore, the submitted comment is already address in the proposed regulations.

5. & 6. The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 183: The Secretary of State does not have the power to regulate Election Code which is defined in California Election Code 15270. Per Government Code 11340/1(a), this law is enforced to reduce the number of administrative regulations and provide the quality of elections to hold vote counting by hand. Hand counting of ballots is reliable, has other advantages, and is authorized by the California Election Code. (Michelle Morgan)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election

official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 184: Opposes Assembly Bill 969. The bill forces every county in California into using electronic voting system and is unconstitutional. Voting machines cannot be trusted. (Peggy Wilson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 185: The comment submitted is the same comment submitted above in Comment No. 8. (Chuck and Linda Pillsbury)

Response: Please see the response above to Comment No. 8.

Comment No. 186: Opposes changes to the California Elections Code. Changes to the Elections Code should be in the direction of ensuring the integrity of the vote tally. Does not believe that demanding that a county continue with a voting system deemed unsatisfactory by the county officials is a solution. (Hunter Cobb)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 187: Opposes the regulations. Believes they would interfere with a county’s ability to run fair and open elections including unencumbered ballot hand counting. (Cheryl Trosky)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all

processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 188: Opposes the regulations. Felt the Secretary of State should have been present at the public hearing. Changing the rules after a County's elected leadership votes to hand count, is reprehensible. The Secretary of State cannot usurp the Legislative lawmaking authority by making "laws" that they term "rules and regulations" that can be changed. (Cheryl Heward)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. "In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation."

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring "that elections are efficiently conducted and that state election laws are enforced."

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 189: The comment submitted is the same comment submitted above in Comment No. 8. (Gene Welch)

Response: Please see the response above to Comment No. 8.

Comment No. 190: The comment submitted is the same comment submitted above in Comment No. 8. (Pam Looney)

Response: Please see the response above to Comment No. 8.

Comment No. 191: Felt the Secretary of State should have been present at the public hearing. The Secretary of state did not provide the 30-day notice to hold the hearing. Urges the Secretary of State to schedule another public hearing with 30-day notification and be present.

Objects Assembly Bill 969. The bill is an attempt to limit local control of elections and obfuscate election data reviewed during an audit.

Changes to California Code of Regulations section 20299 and subsection 20297(b) are violations of CA Election Code Sections 15270-15281 and 15290 that provide guidelines for manual counting. There is no authority providing the Secretary of State, or a board identified by an elected official, oversight of the manual counting process. (Florita Sheldon)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. “In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation.”

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Pursuant to Elections Code section 10, the Secretary of State is the chief elections officer of the state and has the authority under Government Code section 12172.5 to adopt regulations to ensure the uniform application and administrative of state election laws and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.” Additionally, under Elections Code section 320, an elections official is “a clerk or any person who is charged with the duty of conducting an election.”

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

These proposed regulations are not in conflict with Elections Code sections 15270-15281, for Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct. These regulations do not take away an elections officials' option of conducting a manual tally of ballots at a precinct pursuant Elections Code section 15270-15281, but rather provides additional guidance missing from Elections Code on how to conduct a full manual tally of all the ballots in the jurisdiction, not just ballots cast at a precinct voting location.

Comment No. 192: The comment submitted is the same comment submitted above in Comment No. 8. (Daniel Schoppe)

Response: Please see the response above to Comment No. 8.

Comment No. 193: Opposes Assembly Bill 969, but comments apply to any similar legislation which may be considered.

Opposes forcing ballots to also be scanned and counted by tabulation computers. This effectively forces counties to use machines that obscure the chain-of-custody from observers.

Opposes the prevention of manual counting at a polling place and requirement for it to be done in a centralized location. The transportation of ballots introduces unnecessary complications into the chain-of-custody of ballots. Election integrity is provided when a voter is present in-person at a polling location and the ballots are counted in public view by teams of human beings, especially when an automatic recount by another team is done at the same location on the same day as the first count. (Michael English)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. This condition is necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification

Section 20298(b)(1) states that a manual tally shall be conducted at a county designated central return location(s) pursuant to Elections Code sections 15260 and 15261. Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct.

Comment No. 194: Opposes the regulations. Hand counting of ballots in California was always performed at local precincts and results were always known immediately after the election. These regulations that would act against public trust in our voting systems. They will make the public question their participation in the voting process. The voting systems have potential electronic back doors that can be manipulated by those who didn't do the voting

The Secretary of State was not present at the public hearing.

What is the point of these regulations? Why does centralization of counting have to be a pillar of your agency's policy?

Logic and accuracy tests done at the beginning of the election on computerized tabulators are done against the more accurate human counts.

Abandon the implementation of these regulations as currently written, and redraft something that decentralizes hand counts, and makes them the standard by which elections are once again conducted and makes them easy to conduct without a need for approval by the Secretary of State.

Provide our counties the opportunity to create their own hand counting policies and procedures.

Delegate authority regarding hand counts to the counties. (Joseph Ferrari)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. “In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation.”

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Comment No. 195: The One Percent Manual Tally is flawed as shown in Alameda County. The proposed regulations do not define the term “discrepancy.” Regarding Elections Code section 15360, County Elections Official should not be allowed to omit all ballots counted after Election Night from the One Percent Manual Tally. The vast majority of adjudicated and re-made ballots are not included in the “semifinal official canvass.” A County Elections Official’s decision to shunt a ballot into adjudication can exempt that ballot from the One Percent Manual Tally. (Jason Bezis)

Response: The Secretary of State acknowledges this comment. Pursuant to 15360(d) the elections official shall not randomly choose the initial precincts or select an additional precinct for the manual tally until *after* the close of the polls on election day. Elections Code section

15360 and section 20313 of the proposed regulations provide all direction on how the precincts and ballots are selected, and to be counted in the one percent manual tally.

Comment No. 196: Supports the regulations but has the following feedback:

Regarding Section 20283(c)(4), it is recommended that the voter's choice of voting position target is clearly indicated. If the voter places a mark between two voting position targets (directly above one target and directly below another target), the voter's choice would not be clear and would be impossible to determine, causing the vote to be considered void pursuant to Section 20282(b).

Regarding Section 20283(d)(5), it is recommended that this existing provision be clarified regarding whether or not both voter choices would be considered invalid because the voter filled in both voting position targets in a vote for one contest, creating an overvote. Or if the voter does not mark the voting position target for the designated write-in space, would only the name of the candidate in the write-in space be considered invalid and the properly marked target next to the other candidate's name be considered a valid vote? Optical Scan Voting Systems look for marks in the voting targets and would not automatically send a ballot to adjudication if a name is written in the designated write-in space without the target also being marked.

Regarding Section 20299(f), it is recommended to add a provision to Section 20299(f) to allow the county elections official to modify elements of the approved Plan during the Canvass to increase or decrease the operating hours and the number of boards contained in the Plan if the number of ballots cast is sufficiently different that the estimated amount of ballots on which the Plan was based.

Regarding Section 20300(b), it is recommended to delete the proposed bipartisan composition requirement for the counting boards as the proposed regulation creates an additional qualification for counting board members that is not authorized by Elections Code. Election Code sections 12302, 12303 and 15205 sets forth the qualifications for service on a precinct or counting board. Nowhere in the Election Code is the election official permitted, let alone required, to consider the political affiliation of such members. Thus, the regulation appears to conflict with the Election Code by creating additional qualifications for service on such boards beyond those set forth in the Election Code. It is recommended the proposed regulations require the county elections official to post a report listing the number of counting board members by political party preference. This could be similar to the posting requirement for precinct board members in Elections Code section 12105.5.

Regarding Section 20303(a)(1), it is recommended that clarification be provided regarding what is expected for sequential serialization of the ballots, perhaps by adding a definition in Section 20297. there is no mention of the ballot duplication process within Section 20303, recommends clarification be provided regarding whether duplication should occur before the elections official places serialized numbers on the ballots.

Regarding Section 20305(a)(1), it is recommended that the ballots be scanned before they are handled by the counting boards. This would provide a stronger approach to maintaining chain of custody and identify ballots that require duplication before they are manually tallied.

Regarding Section 20305(a)(4), it is recommended that this Chapter include a statement of expectations regarding the audit process, potential discrepancies, and resolution of certain discrepancies.

Regarding Section 20307, It is recommended that, rather than creating an observation section, this Chapter instead reference the proposed Election Observations Rights and Responsibilities regulations and that the proposed Observation Regulations include ballot counting as observable activities to avoid conflict between the two sets of regulations.

Regarding Section 20313(a), the commentor recommends deletion of the reference to the election management system at the end of this subsection. The list of precincts in a county is contained in the election management system, and therefore, cannot be independent of the random selection of precincts for the One Percent Manual Tally. Additionally, the election management system is separate and independent of the voting system, and therefore has no connection to the election results that are tallied on the voting system.

Regarding Section 20314(a), it is recommended that this subsection be clarified to state that an individual chain of custody document is not required for each individual ballot manually tallied during the One Percent Manual Tally as the chain of custody document for each batch of ballots included in the One Percent Manual Tally is sufficient.

Regarding Section 20351(h), It is recommended that recommends revising the added reference of “language translation files” to “ballot translations” as the translation of the county Voter Information Guide and other election informational documents is not relevant to a recount.

Regarding Section 20353, it is recommended that a subsection (f) be added to this existing section to clarify that the provision of relevant material to the party requesting the recount satisfies the elections official’s requirement pursuant to Elections Code section 15626 to commence the recount within seven days of the submission of the recount request. Additionally, it is recommended the addition of a statement that examination of relevant material cannot be used by the requesting party to unreasonably extend the recount process and delay the commencement of counting ballots.

Regarding Section 20362(c)(3), the reference to subdivision (c)(1) is in error and should instead be a reference to subdivision (c)(2).

Regarding Section 20372(a), it is recommended to change the word “shall” to “may additionally” as it will provide the elections official with the flexibility of allowing the requestor, spokespersons and observers the opportunity to see the under- and over-voted ballots during a presort or during the recount of all ballots that contain the contest. Either approach is transparent.

Regarding Section 20373(a), it is recommended to change the word “shall” to “may additionally” as it will provide the elections official with the flexibility of allowing the requestor,

spokespersons and observers the opportunity to see the under- and over-voted ballots during a presort or during the recount of all ballots that contain the contest. Either approach is transparent. (Bob Page)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

1. 20283(c)(4) The Secretary of State appreciates this suggestion. The amendment was not made. If a voter has not consistently marked their selection throughout the ballot in a manner in which the voter intent can be determined, then under Section 20283(d)(3), the write in vote shall be deemed invalid. Section 20283(c)(4) is intended to provide guidance when a voter has consistently marked a ballot and voter intent can be clearly determined.

2. 20283(d)(5) The Secretary of State appreciates this suggestion. This submitted amendment was not made to the proposed regulations. Section 20283(d)(5) states that a voter's choice shall be considered an invalid vote if the voter writes in a listed candidate's name in the designated write-in space and fills in the associated voting position target for a different listed candidate in the same contest because the voter's intent cannot be determined.

3. 20299(f) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion, however, the status updates to the Secretary of State required by subsection 20299(e)(2) includes a status update on all components of the Manual Tally Plan as it is being implemented. The elections official can communicate any need concerns or changes at that time.

4. 20300(b) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion, however the provision does state "if feasible." The Secretary of State recognizes that an elections official may not receive enough counting board applicants to meet this requirement, and thus the flexibility.

5. 20303(a)(1) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. The serialization of ballots is for ballot accounting purposes during the manual counting process. Elections officials should follow already establish ballot duplication processes within their jurisdiction.

6. 20305(a)(1) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. The order of operations prior to beginning the manual tally begins in section 20303. Subsection 20303(a)(2) addresses this concern.

7. 20305(a)(4) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. There are too many variables to make a pre-determined list of potential discrepancies. The ask in this subsection is that the discrepancies be simply be documented.

8. 20307 This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. The Election Observation regulations are in a pending state, and to the extent possible, the Secretary of State aligned the two. However, as the regulations are pending, a reference to regulations that have not yet been adopted, would create confusion and not be legally enforceable.

9. 20313(a) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. The language contained within this section was drafted in consultation with elections officials.

10. 20314(a) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. Chain of custody is universally applied, in that the elections official should be able to account for where the ballots are at all times and who was in possession of them.

11. 20351(h) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. The elections official can make that distinction at the time of request.

12. 20353 This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. Subsection 20353(c) allows the elections official to establish reasonable guidelines for the examination of relevant material.

13. 20362(c)(3) This submitted amendment was not made to the proposed regulations. The Secretary of State appreciates this suggestion. The reference to subdivision (c)(1) is specific to Elections Code section 15632, which lists specific offices.

14. 20372(a) The commenter requests revising the second sentence of the existing subsection (a) to make it permissive rather than mandatory. Upon reviewing the regulations, the Secretary of State did not deem it necessary to alter existing regulation language. The current language is intended to promote transparency in the recount process and public engagement.

15. 20373(a) The commenter requests making the subsection permissive rather than mandatory. Upon reviewing the regulations, the Secretary of State did not deem it necessary to alter existing regulation language. The current language is intended to promote transparency in the recount process and public engagement.

Comment No. 197: Opposes Assembly Bill 969 and the regulations. It is an infringement upon voter's rights. There is no need to restrict local governance. Opposes anything that restrict local governance to have their own voting system. (Sharina Latch)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 198: Opposes Assembly Bill 969. (Kim Johnston)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 199: The comment submitted is the same comment submitted above in Comment No. 8. This comment was submitted twice by mail. (Marjie Andrews)

Response: Please see the response above to Comment No. 8.

Comment No. 200: The comment submitted is the same comment submitted above in Comment No. 8. This comment was submitted by email and by mail. (George Tellez)

Response: Please see the response above to Comment No. 8.

Comment No. 201: The comment submitted is the same comment submitted above in Comment No. 8. This comment was submitted by email and by mail. (Elizabeth Tellez)

Response: Please see the response above to Comment No. 8.

SUMMARY AND RESPONSE TO COMMENTS RECIEVED DURING THE PUBLIC HEARING HELD ON JULY 3, 2023

Comment No. 1: (Patricia Beebe)

NPP voter representing the Last Californian. Assembly Bill 969 will shatter local self-government hand counts. 1% manual tally remains the most critical issue.

1. How the DVS ICX QR codes are manually tallied needs to be added to regs. Observers need to be able to see ballot image and verify that the QR code match what on the ballot.
2. Elections officials should provide documentation – CVR data, precinct totals, and log files. Ballot images should be visible to online and in person observers as they are being tallied.
3. Initial vote tally should be completed by 5pm the day before the tally. Selection of random batches should be done in the presence of election observers. Observers should be given a spreadsheet of all batch numbers prior to selection of tally batches.
4. A sample of all races should be included in the manual tally. All ballot handling should be made observable by the public.
5. The ROV should post all ballot images. Cameras and phones should be allowed to take pics of the tally sheets.

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

1. The suggested amendment was not incorporated into the proposed regulations. The proposed regulations are designed to be applicable to all elections officials, jurisdictions, and voting systems and not specific to a voting system vendor. Voting systems are tested and certified for use in California elections by the Secretary of State's office pursuant to Elections Code section 19202.

2. Section 20312(a)(2) requires the elections official to provide observers with an oral and written explanation of the one percent manual tally, a written code of conduct for observation, and any documentation they will need for informed and effective observation.

3. Section 20312(a)(4) allows the public the opportunity to observe the voters' marks on every tallied ballot.

4. Elections Code section 15360 and section 20313 of the proposed regulations provide all direction on how the precincts and ballots to be counted in the one percent manual tally are selected.

5. Same response as 3 above.

Comment No. 2: Many counties are experimenting with VCA and this has taken away the integrity of our elections. Would like to see section 20315 to release results of the manual tally immediately after finishing. SOS should post all pertinent information. San Francisco posts everything for the public to review. Should provide a summary report so the public knows what to expect. Alameda was able to review 235 ballots and she personally saw 2 errors. This exceeds the allowable rate of errors. (Jackie Cota)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted.

Section 20315(a) was amended to provide further clarification that the elections official shall publish a report of the results of the manual tally on their website for the public immediately upon conclusion of the one percent manual tally but before certification of the results. This is a necessary addition to provide further transparency for the public with the one percent manual tally process and allows for public review of the one percent manual tally results prior to the close of the official canvass period and certification of election results.

Comment No. 3: From Alameda County. The 1 % Manual Tally did not work there. The ROV can write down whatever they want. Alameda never said what they counted. He wanted to see the count but was told they would release it with the certification in 2 weeks. They found errors in the 235 ballots. They found 5 ballots that did not match. They need to disclose what they found and let the public decide if it's a match. (John Guerrero)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 4: Assistant Registrar of Voters for Shasta County. Presenting on behalf of the Cathy Darling Allen, Registrar of Voters of Shasta County. In gratitude of the proposed regulations proposed by the Secretary of State and agree that extensive rule and procedures are needed to ensure the accuracy of hand counting. Some of the changes presented in the proposed regulations will be difficult to implement and some of the changes will not scale up well. Specific comments and changes will be submitted in writing for the 45-day comment period. (Joanna Francescut)

Response: The Secretary of State acknowledges this comment and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. Commentor submitted written comment, which is summarized and responded to above in Comment No. 18 under the 45-day comment period section of this document.

Comment No. 5: San Joaquin County. Many sections are a big mess. The biggest problem is the SOS is able to prevent manual tally by rejecting the counties manual tally plan. Currently counties are not required to submit a plan. The SOS will assume the role of the county governing body who has the power to determine how their elections are run. Even the VCA act only permits the SOS to approve or reject the Education Outreach program. (Molly Watkins)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The governing body of a jurisdiction oversees all local elections. Commenter provides no specific authority to support the claim that the governing body of a county is the only authority to “approve the plan to conduct a manual tally.” The Elections Code provides the rules by which a county must conduct an election.

Comment No. 6: San Joaquin County. You need to remember you work for us. Only citizens should be able to vote. Regulations and bills brought forward this year are making transparency harder. Citizens want transparency and that should be the objective of these regs. You have made it more convoluted, and harder on smaller counties. Why should Alpine County have the same procedures as LA county. You are penalizing counties that cannot afford to do anything else. The 1% discriminates. There are details on the 1% but no specifics on anything else. Hand

counting is low cost and transparent. It is suitable for counties of all sizes. Machine and hand counts should be considered complementary to each other. Hand counting is easier to correct and more understandable. Counties should be free to adopt their own method. Machine counts should be used to cross check the hand counts. Drop ballot boxes, universal vote by mail, and devise methods to detect and prevent fraud, fix serious issues in our voter registration systems. (Carla Heune)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 7: Sacramento County. The biggest issue today is the inability to trust the count. We the people pay your salaries. The SOS has not given substantial evidence to support her Regs on hand counting using Nye County Nevada video. The video says you can get a better count than machines. We the people need to trust our vote and that is not happening. Listen to our voices. (Kathryn Suraci)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The referenced information in the Initial Statement of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

Comment No. 8: Section 20298(C)(2) opening of ballots and adjudication starts at 5pm the day before the election. This conflicts with 15371. The proposed regs make hand counting impossible. Many of the regs would prevent 15270 entirely. The SOS is not authorized to make the administration of existing Election laws more difficult. This bloated 34-page document violates EC section 11340.1(a) and 11346.2(b)(4)(a). Reasonable alternatives to consider should be less burdensome and follow existing EC 15270fc to govern a hand tally. These regs are burdensome and would cause a full hand tally to fail. (Laura Hobbs)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Section 20298(b)(2) states that the elections official conducting a full manual tally may process vote-by-mail ballots received prior to Election Day, such as opening of envelopes and adjudication, beginning at 5:00 p.m. the day before the Election but under no circumstance shall vote-by-mail ballots be counted prior to the close of polls on Election Day pursuant to Elections Code section 15101(b). However, beginning 29 days before the election, the elections official may process vote-by-mail return ballot envelopes, such as signature verification and updating voter history records, pursuant to Elections Code section 15101(a).

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

These proposed regulations are not in conflict with Elections Code sections 15270-15281, for Section 20298(b)(1) also states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct. These regulations do not take away an elections officials' option of conducting a manual tally of ballots at a precinct pursuant Elections Code section 15270-15281, but rather provides additional guidance missing from Elections Code on how to conduct a full manual tally of all the ballots in the jurisdiction, not just ballots cast at a precinct voting location.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Comment No. 9: San Joaquin County. She agrees with all the commenters that this is a bloated document. Many states are making it easier to vote and harder to cheat. California is just the opposite. California is a laughingstock of the nation. (Cynthia Cuevas)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 10: Tehama County Republican Women. The SOS goes beyond standards and requirements by assigning herself the right to both require and reject a manual tally plan without providing reasons for her rejection. Gov Code 12175.2(a) requires to make reports, not plans. The SOS has to wait for 969 to pass. The SOS job is to see elections code is enforced. The manual tally plan is not an inefficient use of elections official's time. This is an unnecessary burden on election officials. 15270 already details how an elections official will conduct the

election and tally the vote. Commentor represents 48 people from Tehama County who would have liked to observe but the short notice prevented it. (Alma Clements)

Response: The Secretary of State acknowledges these comments and has made changes to the proposed text of regulations that addresses parts of the recommendations submitted. For the recommendations accepted and not accepted, the Secretary of State has provided responses below.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Assembly Bill 969 is currently legislation pending review with the state legislators and is not a component of this rulemaking action.

Government Code section 12172.5 authorizes the Secretary of State to require elections officers to make reports concerning elections in their jurisdictions. The Secretary of State has historically requested plans and reports from elections officials to coordinate the implementation and conduct of elections.

Subsection 20299(d) was amended to require the Secretary of State to provide a written list of discrepancies in the plan to the elections officials when rejecting the manual tally plan. The proposed regulations afford an election official two opportunities to submit their manual tally plan to the Secretary of State. This was a necessary to ensure the Secretary of State provides the elections official with the reasons why a manual tally plan was rejected. The condition of only allowing two submissions is in consideration of the limited time elections officials have when planning and conducting an election.

Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots at a precinct level, however the elections code does not have guidance on how to conduct a full manual tally. The proposed regulations are intended to provide clear and concise guidance on how to conduct a full manual tally of ballots.

Section 20299 is proposed to be added to establish the requirement of any elections official that is to conduct a manual tally of all their ballots to submit a manual tally plan to the Secretary of State for their approval or rejection. The California Government Code 12172.5 authorizes the Secretary of State to request reports or plans to ensure that elections are efficiently conducted, and that state and federal election laws are enforced. A manual tally plan by the elections official is necessary to ensure that the counting is conducted in accordance with state and federal law and is done efficiently, accurately, securely, fairly, and are accessible.

Comment No. 11: Requests we further review regulations on ballot counting. 20299(a) and 20299b timeline to submit manual tally plan is already less than 120 days until their November special election. They may be required to go to a contingency plan and use a voting system to tabulate results. Their Dominion machines are gone. They got rid of DVS system in good faith.

Mandating that a stand-by expensive, SOS certified voting system is unnecessary. He will provide written comments by tomorrow. (Robert Holsinger)

Response: The Secretary of State acknowledges this comment. While some of the submitted comment do not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Subdivision 20299(a) was modified to decrease the time requirement from 120 days to 80 days prior to the election. This aligns with the timing of final logistics leading up to the conduct of an election. Further subsection (b) was modified to require the Secretary of State approve or reject the Manual Tally Plan, no later than 70 calendar days prior to the date of the election.

The commentor also submitted written comments, which are addressed above in Comment No. 181.

Comment No. 12: Shasta County California. In 2016 case Californians for Fair Elections vs Padilla, the plaintiffs argued against having to use a voting system. This case gave counties the discretion to use a certified voting system. In January 2023 the Shasta County Board of Supervisors voted to get rid of the Dominion system. The state agency had a conflict with this and in 14 days it went to a proposal to be voted on by the committee of elections. This was under the urgency statute of provisions. This was then changed to urgency instead of emergency. This was done so the jurisdiction knows what voting system they are using for the upcoming March election. The case determined a county can choose their own voting system. This was done to circumvent Elections Code. (Frank Medberry)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

These regulations are being promulgated through the California Administrative Procedures Act.

Comment No. 13: Shasta County. Objects to 20299(f)(11) which requires elections officials to verify the count using a voting system. We need to get back to an open vote with as few regulations. We need voter ID so we have 1 vote 1 person. Let's keep it within the people in the county to decide what they need. (Laurie Hallum)

Response: The Secretary of State acknowledges this comment While some of the submitted comment do not directly address any specific adoption, amendment or repeal proposed, the

Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The submitted comment opposes 20299 (f) (11) which requires the use of a certified voting system to be used to verify and audit the results of the full manual tally. Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. The proposed regulations are necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification.

Comment No. 14: Registered voter in Shasta County. The SOS does not have the authority to adopt these regulations. Section 15270.2 that authorizes these regulations does not exist on May 19 and are not included in the authority cited. She must go back and issue new text and regulations only if Assembly Bill 969 passes. Then she must restart the process of a 45 notice with regulations on hand counting that will include substantial changes including new statutory authority, why these regs are needed, consideration of less burdensome alternatives, and a fiscal impact analysis. If Assembly Bill 969 passes, 20298 (a full hand tally) will be in conflict with that law. The SOS is trying to pass regulations on laws that have not passed. Shasta County confidence in voting machines is at an all-time abysmal low. The SOS does not have authority to take away laws that have protected voters for many years. (Kari Chilson)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Comment No. 15: On the Shasta Board of Supervisors representing the 1st district. We made a lawful vote to go to full manual tally. This was based on the will of the people and what's best for Shasta County. Both the SOS and Legislature have moved to usurp their authority by requiring them to purchase an unnecessary voting system, saddling them with burdensome regulations, and prevent them from conducting a full manual tally. Kathy Darling Allen is competent and has completed manual tallies before. He has seen on Zoom since January, and he has seen the SOS, Legislature, and State of California completely stripping counties of local control. He implores the SOS to let counties control their own elections. He wants transparency more than anything. (Kevin Crye)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Federal law under the Help America Vote Act as well as state law under Elections Code section 19240 require that a certified voting system be provided for accessibly for voters with disabilities for use in all California elections and that at least one voting unit shall be provided in each polling place.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 16: Nevada County. The US Constitution is the law of the land. The Legislature is the law in California and the Legislature. May make no law except by statute. We are a republic with representative government to avoid 1 branch with too much power. This is known as the separation of powers doctrine. The SOS’s job is to make sure the laws are faithfully executed. The SOS cannot make laws and call them rules or regulations. The law cannot be left to interpretation by an executive branch. The SOS is ramping up execution of a law that is not even passed. You can’t do it. (Cheryl Heward)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Comment No. 17: She is there to talk about 2 things: what is uniform and reasonable. Section 12172.5 is an authority cited. The SOS shall see that elections are efficiently conducted and may adopt regulations to ensure the uniform application of state election laws like EC 15274. The elections official may restrict the presence of personal items and use of cell phones. 20299(f)(14) requires a detailed description of how the public will be provided reasonable access but reasonable is not defined. This contradicts 15104(d) the distance that vote by mail observers be

allowed sufficiently close access to see signatures. This is in direct conflict with current statutory laws. (Nancy Peirce)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Section 20299(f)(14) requires the elections officials to provide a detailed description of how the elections official will provide reasonable access to media and observers in a manner that does not compromise the security and secrecy of the ballots and interferes with the conduct of the election in the submitted manual tally plan. The Secretary of State is then charged with reviewing and approving the manual tally plan in section 20299(b). During the review of the manual tally plan, the Secretary of State is looking to ensure that the submitted manual tally plan complies with the requirements of the proposed regulations as well as state and federal law, including Elections Code section 15104(d).

In Sections 20299(f)(13) and 20299(f)(14) the use of the phrase “may” is used to provide the elections officials flexibility in how to implement their elections. The conduct and implementation of elections in California is a partnership between the state and local election official, in which all parties work together to ensure the success and security of the election. Throughout various regulations, permissive language is used to provide flexibility in areas of implementation while still enforcing compliance with state law. In Sections 20299(f)(13) and 20299(f)(14), the elections official has the discretion to limit the use of personal items, cell phones and other media devices if they are interfering with the elections process. Additionally, both of these proposed sections are necessary to maintain the integrity of the manual tally process, aid in the physical security of the ballots, and ensure voters’ right to a secret ballot is not compromised.

Comment No. 18: A California citizen. They were required to show a driver's license to access the hearing. Our elections do not require a driver's license. The 1% manual tally is evidence that hand counting is accurate. The statement that hand counting is not accurate is not true. Counties can hand count accurately. This is proved by Orange County’s 53,000 votes counted accurately in less than 30 days. San Bernardino completed a manual tally in 2020 with 89 people without the overly burdensome proposed regs. She observed fraud herself. (Joette)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 19: Nevada County. Where is Shirley Weber today? Is there an elected official on stage today? There is no elected official on stage to hear us. She has sent three requests for the fiscal impact report that went with these regulations and has not received any response. Can we please forward that report. The Nye County and MIT studies that show hand counting is historically inaccurate is not substantial at all. There are less burdensome alternatives. Government code 11346.2(b)(4)(a) requires we give reasons why we reject these alternatives, and reasonable alternatives. Currently the SOS has no statute enabling her to draft these statutes. You need to provide performance standards as alternatives to using a vote system. (Amy Young)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. “In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation.”

Comment No. 20: Many of the regulations are overly burdensome and obstruct the implementation of Election Code sections 15270 to 15281. Requiring 10 feet between tables will require a county to implement a much larger space. Requiring a scale diagram which has to be drawn up by an architect or someone with CAD software skills will cost thousands. The SOS has not taken this into consideration. Section 20299(d)(2) allows the SOS to reject the Manual Tally plan without reason. A county would not know what to fix to resubmit the plan. Section 20299(f)(10) requiring the use of a voting system concurrently with hand counting is time prohibitive. The SOS has not provided evidence that a voting system is even necessary. It is costly, time consuming and cumbersome. Limiting the stacks to 25 and a certificate of each stack will result in a bottle neck. Batches as large as 200 have been successfully counted. Serializing ballots is not currently done with a voting system. Adding serial numbers to millions of ballots will cause unnecessary delays. The SOS is not here to listen to me. (Kathleen Harkens)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Section 20303(f) was amended to remove the single table requirement and the 10 feet distance between the tables. This amendment is intended to allow for more flexibility in the planning and implementation for the elections official with the selection and setup of central return locations.

The scaled diagram requirement. Section 20299(f)(7)(B) has been modified to read “The planned setup of the location, including but not limited to the spacing of the tables and designated observation spaces.”

Subdivision 20299(d) was modified to include the condition that the Secretary of State shall provide in writing a list of any deficiencies in the manual tally plan when issuing a rejection of the initial submission. This is a necessary modification because it requires the Secretary of State to clearly identify issues with the submitted manual tally plan, which in turn provides the elections official with clear guidance on what needs to be modified or addressed in the resubmission of the manual tally plan.

The requirement to not exceed stacks of 25 ballots in section 20303(a)(5) has remained unchanged. The process of counting ballots by hand can be quite taxing and hand counters can become quite tired. The 25-ballot stack limitation is designed to help lower the chances of human error when counting ballots.

Comment No. 21: (Kim Alexander)

California Voter Foundation. They joined with Verified Voting Foundation, the Brennan Center, and CA Common Cause to submit comments. They support manual tally for the purpose of audits and recounts however they do not think solely hand counting will support accurate counts. Other states have tried, and it did not turn out well. Counties should publish the results of their 1% MT on the SOS website. Counties should explain discrepancies. They recommend three things:

1. Ensuring current regulations are clear and up to date.
2. Establishing a ballot reconciliation process.
3. Establish a chain of custody definition.
4. Expand public access to manual tally
5. Create a digital image of every ballot.
6. Keep the door open on open source.
7. Remove Microsoft Excel to provide random numbers.

Response: The Secretary of State acknowledges these comments and appreciates the time given to review and provide public comment on the proposed regulations. The commentor submitted the same comment as written comments, which are addressed above in Comment No. 17 of the 45-day public comment section.

Comment No. 22: Nevada County. She has voted for 56 years. These were all on 1 day until recently. She would know the winner the next day. She was a poll worker and voted on paper ballots and would not leave the polling place until their numbers were correct. One ballot one vote works. Why don't we go back to that. This will save money as well. (Judy Ballentine)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 23: San Joaquin County. Counties can only count centrally. No polling place counting. Requires a plan which can be rejected solely by the SOS. The county may be forced to use a voting system certified by the SOS. It removes processing from local control. Hand counting at the precinct level ensures accuracy and transparency. Poll workers will have a paper trail. You get a receipt when you buy something. This discriminates against smaller counties. It is curious how we get these Regs right after Shasta County. In Europe they vote on 1 day. (Alex Aliferis)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Subdivision 20299(d) was modified to include the condition that the Secretary of State shall provide in writing a list of any deficiencies in the manual tally plan when issuing a rejection of the initial submission. This is a necessary modification because it requires the Secretary of State to clearly identify issues with the submitted manual tally plan, which in turn provides the elections official with clear guidance on what needs to be modified or addressed in the resubmission of the manual tally plan.

The proposed regulations afford an election official two opportunities to submit their manual tally plan to the Secretary of State. The amendment to subsection 20299(d) was necessary to ensure the Secretary of State provides the elections official with the reasons why a manual tally plan was rejected. The condition of only allowing two submissions is in consideration of the limited time elections officials have when planning and conducting an election.

The proposed regulations do not seek to limit the elections official authority when conducting an election. Elections Code sections 15270-15281 do provide guidance on how to conduct a manual count of ballots in a precinct. The Elections Code does not contain specific authorization or guidance on conducting a full manual tally. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 24: Placer County patriot. We know why this meeting occurred today. You work for us. These Regs are overly burdensome and obstruct the implementation of EC 15270 through 15281. Not every County has a venue that will allow 10 feet between tables. How will small counties get the money to provide a scale diagram of the room. The SOS can reject the

manual tally plan without providing any reasons. How can the county fix it? Requiring use of a voting system concurrently is time and cost prohibitive. This is unconstitutional. The county can implement voting however they choose. She opposes Assembly Bill 969. (Deborah Grinder)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Section 20298(b)(1) states that ballots shall not be tallied at a voting location, except for manual tallies conducted pursuant to Elections Code sections 15270-15281, which allows for the ballots to be counted at the precinct and does not obstruct the implementation of Elections Code 15270.

Section 20303(f) was amended to remove the single table requirement and the 10 feet distance between the tables. This amendment is intended to allow for more flexibility in the planning and implementation for the elections official with the selection and setup of central return locations.

Subdivision 20299(d) was modified to include the condition that the Secretary of State shall provide in writing a list of any deficiencies in the manual tally plan when issuing a rejection of the initial submission. This is a necessary modification because it requires the Secretary of State to clearly identify issues with the submitted manual tally plan, which in turn provides the elections official with clear guidance on what needs to be modified or addressed in the resubmission of the manual tally plan.

Comment No. 25: Nevada County Clerk Recorder and Registrar of Voters. When you look at the history of voting systems in California people suck at hand counting. The first voting machines were patented in 1869 by Thomas Edison. California created state Commission on Voting Machines in 1903. There is a consensus that people cannot count accurately. People get tired after a long day. Roy Saltman from the Bureau of Standards cautioned against hand counting. He said it led to fraud, inaccurate counting, and malicious invalidation of votes. (Natalie Adona)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

Comment No. 26: Anything that distances the people from governance is unconstitutional. Administrative Procedures Act Section 11346.2(e) asks if the regulation is an efficient and effective way to implement the statute. Section 20299(f)(11) is a huge burden on time and County finances. Smaller counties will not be able to afford an expensive voting system. L&A testing will also create a burden on Counties. Section 20299(f)(11) is not lawful and must be stricken. (Sandy Placer County)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Federal law under the Help America Vote Act as well as state law under Elections Code section 19240 require that a certified voting system be provided for accessibly for voters with disabilities for use in all California elections and that at least one voting unit shall be provided in each polling place.

Comment No. 27: Placer County. The notice for the public hearing was not adequate. There were probably many people that wanted to come but could not. The SOS is not even here. Intimidation is not allowed. We can vote the way we want to vote and the State will not interfere. She is indigenous and standing up for all the counties in California. (Sharina Latch)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The public hearing was scheduled and held in accordance with Government Code Section 11346.8. “In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation.”

Comment No. 28: She learned of hearing at 10:30 this morning. She is disgusted with the State for taking away her voting rights. She was a poll worker for many years and always had to review the counts. This is insane what the state is doing. (Debra Rittenhouse)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the proposed regulations.

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY NOTICE PERIOD ENDING JULY 24, 2023

Comment No. 1: Hand counting should only be allowed if there are 1000 or less ballots cast. The hand counting should be by bipartisan paid volunteers, that have been registered for 4 or more years to the same political party. This will avoid people switching parties, so that they can qualify to count ballots under a different party. (Brad Garbutt)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 2: The regulations negate court findings in *Pearson vs Kemp* stating that the Secretary of State has no lawful authority over County Election Officials and methods to hold an election. The regulatory actions citing methods of counting are illegal oversteps and violation of Civil Rights. A legal vote is one that has been marked as directed: to be fully filled into the voting target. Marking a ballot with an x, a circle or any other method makes the ballot invalid and should be separated and never counted a legitimate vote. The Secretary has no legal right to reject a Manual Tally Plan or any method of elections that the county is within their rights to choose. (Cheryl Frink)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The proposed regulations do not seek to limit the elections official authority when conducting an election. The proposed regulations seek to provide clear and concise requirements for all processes relating to manually counting ballots, which in the absence of regulations could result in significant errors and lack of standardized rules.

Comment No. 3: I object to changes. SOS is going beyond the scope of authority. The regulations negate court findings in *Pearson vs Kemp* stating that the Secretary of State has no lawful authority over County Election Officials and methods to hold an election. The regulatory actions citing methods of counting are illegal oversteps and violation of Civil Rights. A legal vote is one that has been marked as directed: to be fully filled into the voting target. Marking a ballot with an x, a circle or any other method makes the ballot invalid and should be separated and never counted a legitimate vote. The Secretary has no legal right to reject a Manual Tally Plan or any method of elections that the county is within their rights to choose. (Susan Stivers)

Response: Please see the response above to Comment No. 2.

Comment No. 4: Please also consider amending the HAVA to prohibit non-citizens from applying to vote through the DMV or other accessible venues. (Alison Hayden)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 5: (John Guerrero)

20310. General Provisions

(d) The elections official shall make provisions to comply with Elections Code section 15004. Representatives, as defined in 15004 shall be present at any and all phases of the election. This includes any and all phases of the one percent manual tally.

20312. Public Notice and Observation

(a) The elections official shall ensure that the one percent manual tally is observable by the public and complies with Election Code section 15004. The elections official shall provide:

(a)(2) Observers with an oral or written explanation of the one percent tally, a written code of conduct for observation, written voting system batch/precinct totals involved in the one percent manual tally and any documentation they will need for informed and effective observation prior to the one percent manual tally.

20314. Chain of Custody

(a) The elections official shall maintain and document at all times the chain of custody for each ballot included in the one percent manual tally. Ballots shall be kept securely, and the chain of custody maintained at all times during the one percent manual tally. Representatives pursuant to Election Code section 15004 shall be allowed to be present at any and all chain of custody phases.

20315. Reporting of Results

(a) The election official conducting a one percent manual tally shall immediately upon conclusion and prior to certifying the results pursuant to Elections Code 15372, publish a report of results for the one percent manual tally on their website. Representatives pursuant to Elections Code section 15004 shall be present at any and all phases of the tallying of the one percent manual tally results and shall be allowed sufficient close access to view and record the results as they occur. Photographing of the tally sheets shall be allowed.

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 6: The changes are not adequate and the previous comments need to be adopted as stated at <http://votewell.net/cacount.pdf>. The previous changes need to be adopted to avoid arbitrary and unsupportable differences among initial counts, 1% counts and recounts, and limits on them, in accord with California laws, to ensure accurate cumulations, and to ensure a reliable chain of custody.

Section 20281-20283 – The commenter reiterates previous comments from 2022.

Section 20299(a), (b), (d) and (e) The commenter suggests if there is a Manual Tally Plan, the status updates be posted on the County and Secretary of State websites.

Section 20299(c) The commenter states that “sufficient detail to fully describe each element” is unreasonably vague.

Section 20299(f)(6) and (14) The commenter believes that the use of cell phones, cameras, and audio and video recording devices should be allowed to dispel misinformation.

Section 20299(f)(8) and 20303(a) The commenter has concerns regarding the numbering and imaging of each ballot.

Section 20299(f)(13) The commenter suggests that the daily changes of pen colors, should also be done in the 1% manual tallies and recounts.

Section 20301(a)(11) The commenter suggests that the different color watermarks each day is a security risk.

Section 20299(f)(11), (15) and 20305(a)(3) The commenter states that it is not clear that the law requires machine auditing any hand-counted ballots.

The commenter suggests a reconciliation method.

Section 20300(c) The commenter suggests that a 4-person counting board have no more than two members of the same party preference.

Section 20301(a)(7) The commenter suggests that the same approach for the manual tally be used for the 1%.

Section 20303(a)(8) The commenter likes the concept but thinks that it seems hard to avoid mistakes when tallying single votes for each candidate and overvotes on the same sheet.

Section 20303(d) The commenter inquires why the use of medical style exam gloves is not required for 1% manual tallies and recounts.

Sections 20303(i), 20372(g), and 20373(g) The commenter states that the first section requires a re-tally, however the latter two allow recount boards to correct simple mistakes without a re-tally.

Section 20303(m)(2) The commenter states the tally method is error-prone and the rule should also apply to the 1% manual tallies and recounts.

Section 20303(m)(3) The commenter states that tallying one contest at a time before moving to the next contest is rarely done. The commenter suggests applying proposed rule 20303(g).

Section 20303(j) The commenter states this provision takes the supervisor away from other duties.

Section 20358(b) The commenter states this provision is another diversion for the supervisor.

Section 20304(a) The commenter provides an approach for the cumulating boards to compile election totals.

Section 20304(b) The commenter suggests that the Secretary of State does not have the authority to control the totaling process.

Section 20310 The commenter believes the sample selection allowed is too early in the process.

Section 20315(b)(12) The commenter supports this requirement.

Section 20311(f) The commenter suggests that there be additional posting requirements of the public notice.

Section 20312(a)(4) The commenters suggests that webcams be allowed to focus on the ballots, as the current Elections Code that authorizes 10 non-party observers plus 2 per party, causes crowding.

Section 20312(b) The commenter acknowledges that observers can ask questions, but states that Elections Code section 2300(a)(9)(B) allows observers the right to get answers and should be included in the rules.

Section 20313(b)(2)(B) and (C) The commenter suggests that this provision gives very uneven probabilities and suggests adopting the method suggested by the California Voter Foundation, Verified Voting, California Common Cause and the Brennan Center.

Section 20314(c) The commenter states that the seals are unreliable and can be breached by children.

Section 20314(d) The commenter suggests that this provision over-promises and that the ballots selected for the 1% manual tally, should be compared publicly to the election machines' original ballot images.

Section 20353(c) The commenter suggests the change from shall to may, should change back to require copies.

Section 20354(a) and (b) The commenter suggests the rules should let the requester know reported vote totals by batch before the initial choices of batches or allows changes without approval.

Section 20358 The commenter suggests the 4-member board is an arbitrary limit on local discretion and a 5th member should be added.

Section 20361 The commenter suggests that delegating each county to have its own policies in place regarding recording devices will lead to arguments and unequal access.

Section 20370(b) The commenter suggests clarifying that the provisions allowed in Elections Code section 15627(a) for recounts, “by means of the voting system used originally,” be allowed, so that the requester could potential conduct an independent analysis using independent software.

Section 20372(a) The commenter suggests that the sorting method suggested by this provision is less accurate than read and tally.

(Paul Burke)

Response: The Secretary of State acknowledges this comment. The Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Section 20281-20283 The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20299(a), (b), (d) and (e) The Manual Tally plan updates, pursuant to section 20299(e)(2), allow for the elections official to communicate any updates needed to the plan as the Canvass process progresses. Subdivision 20299(d) was modified to include the condition that the Secretary of State shall provide in writing a list of any deficiencies in the manual tally plan when issuing a rejection of the initial submission. This is a necessary modification because it requires the Secretary of State to clearly identify issues with the submitted manual tally plan, which in turn provides the elections official with clear guidance on what needs to be modified or addressed in the resubmission of the manual tally plan.

Section 20299(c) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20299(f)(6) and (14) The Secretary of State acknowledges this comment. Subsection 20299(f)(6) is specific to staff participating in the manual tally process. Subsection 20299(f)(14) addresses the use of recording devices by the media and observers.

Section 20299(f)(8) and 20303(a) The Secretary of State acknowledges this comment. The rule is aid in ballot accounting and have a record reflecting the state of the ballots prior to beginning the manual tally.

Section 20299(f)(13) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20301(a)(11) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20299(f)(11), (15) and 20305(a)(3) The Secretary of State acknowledges this comment. Current state law requires elections officials to conduct a one percent manual tally audit when votes are tabulated using a voting system, however there is no statutes on how to conduct an audit of a manual tally of votes. This condition is necessary to establish audit requirements for a manual tally, which in turn verifies the accuracy of the election results prior to certification. The voting system tabulator must be certified by the Secretary of State pursuant to Elections Code section 19202.

The commenter suggests a reconciliation method. The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20300(c) The Secretary of State acknowledges this comment. The elections official is allowed flexibility with the counting board, as enough members of a political party may or may not apply to be on the counting board. The elections official has flexibility, if feasible, to meet the criteria set forth in 20300(c).

Section 20301(a)(7) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20303(a)(8) The Secretary of State acknowledges this comment. The tallies must be kept on the same sheet to avoid duplicative work.

Section 20303(d) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Sections 20303(i), 20372(g), and 20373(g) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20303(m)(2) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20303(m)(3) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20303(j) The Secretary of State acknowledges this comment; however, it is not mandatory that the counting board supervisor distribute the stated materials. The elections official can direct someone else to perform that function.

Section 20358(b) The Secretary of State acknowledges this comment; however, the supervisor's role is clearly defined in this subsection.

Section 20304(a) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20304(b) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring "that elections are efficiently conducted and that state election laws are enforced."

Section 20310 The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20315(b)(12) The Secretary of State acknowledges this comment.

Section 20311(f) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the

updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20312(a)(4) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20312(b) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20313(b)(2)(B) and (C) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20314(c) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20314(d) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20353(c) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20354(a) and (b) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20358 The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20361 The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20370(b) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Section 20372(a) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 7: I strongly oppose your proposed change to ballot counting. This will suppress Californians with disabilities from voting that rely on manual ballot counting, that cannot use the Dominion tabulator and need assistance. The Legislators intruding in county affairs to this extent, will lead to mistrust with the State in our voting process. Some counties and countries have had positive similar decisions like Shasta County, include Canada, England, Germany, Italy, Netherlands and France. They documented severe election fraud and manipulation as a result of employing the same election systems now in use in California and across the U.S. I oppose Assembly Bill 969 and any state regulations that restrict local governance to have their own voting system. (Kathryn Suraci)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The governing body of a jurisdiction oversees all local elections. Commenter provides no specific authority to support the claim that the governing body of a county is the only authority to “approve the plan to conduct a manual tally.” The Elections Code provides the rules by which a county must conduct an election.

Assembly Bill 969 is currently legislation pending review with the state legislators and is not a component of this rulemaking action

Comment No. 8: Multiple reports suggest that voters think the midterm elections were affected by voter fraud. There are concerns over mail-in-ballots and drop boxes. It’s difficult to understand California’s stance against voter ID. When counties, like Shasta County, work together to clean up their elections and ban Dominion voting machines, politicians propose bills like Assembly Bill 969. Go back to one day voting in local precincts, paper ballots, real signatures and no machines. (Jonna Hoppes)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Assembly Bill 969 is currently legislation pending review with the state legislators and is not a component of this rulemaking action

Comment No. 9: In the Addendum, all changes should be noted. This is what is left off the addendum:

20281 - Change to the number of the regulation - and that text was revised.

20282 - Change to the number of the regulation - and that text was added.

20283 - Change to the number of the regulation.

20284 - Change to the number of the regulation.

20285 - Was deleted all together and not in the addendum

20297 - This whole section was added but not mentioned in the Addendum at all.

20299a. - Why would you change the timing on submitting a plan for manual tally? It gives the county less time to come up with a plan to satisfy the SOS which we know will never get approved

20299 c-1,2,3,4- Giving the SOS total oversight with no rules on what constitute a "good Manual Tally".

20299 c-1,2 - 10 days for the county to put together a revised plan? That is ridiculous and the SOS knows it.

20299 e, C - you may revoke if the SOS sees no implementation? Again, where are the specifics on what this means?

20303 1 - sequentially serialize each ballot? why? What does that mean?

20307 b - Where is the modification? Nothing is showing.

20350 - Change to the number of the regulation and not in the addendum.

20351 - Change to the number of the regulation and not in the addendum. Numerous sentences are deleted and not referenced in the addendum!

20352 - Change to the number of the regulation and not in the addendum. There are additions and deletions that are not referenced in the addendum.

20353 - Change to the number of the regulation and not in the addendum

20353b - a deletion not commented on in the addendum.

20354 - Change to the number of the regulation and not in the addendum.

20355 - Change to the number of the regulation and not in the addendum! There are deletions that are not referenced in the addendum.

20356 - Change to the number of the regulation and not in the addendum.

20357 - Change to the number of the regulation and not in the addendum. Deletions not referenced in the addendum.

20358 - Change to the number of the regulation and not in the addendum! Deletions not referenced in the addendum.

20359 - Change to the number of the regulation and not in the addendum.

20360 - Change to the number of the Regulation and not in the addendum.

20361 - Change to the number of the Regulation and not in the addendum.

20362 - Change to the number of the Regulation and not in the Addendum.

20363 - Change to the number of the Regulation and not in the Addendum There are deletions that are not referenced in the addendum.

20370 - Change to the number of the Regulation and not in the Addendum.

20371 - Change to the number of the Regulation and not in the Addendum. And there is a deletion that is not referenced in the Addendum.

20372 - Change to the number of the Regulation and not in the Addendum

20373 - Change to the number of the Regulation and not in the Addendum

No reference in the addendum to the deletion of Article 3, 20840, 20841. (Darres Cook)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 10: The comment submitted is the same as the comment submitted in Comment No. 9 above. (Carla Heune)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 11: Electronic voting machines are “historically inaccurate.” (Joette Koelsch)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of

State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 12: The comments received are related to Assembly Bill 969 legislation, voter citizenship, voter ID, vote by mail ballots, drop boxes, early voting, the Hart Voting system, and ballot harvesting. (Cynthia Schaumberg)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 13: The comments address an urgency clause under the California Constitution and the powers granted to the Secretary of State. The commenter is concerned about the proposed ballot counting regulations as authored by the Office of Administrative Law, nor can the SOS delegate authority it does not have, to another administrative group. The regulations would prohibit an elections official from performing a manual vote count in which there are more than 1000 registered voters. (Anne White)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Further, the Office of Administrative Law has authority to review the regulations and did not author the regulations.

The comment addresses an urgency clause and prohibition of a manual vote count in which there are more than 1000 voters. The regulations do not contain either of those provisions.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Comment No. 14: The comment mentions a concern with Assembly Bill 969. The commenter has concerns regarding citation of an MIT study and Nye County YouTube video, conflict between the regulations, existing law, and the proposed Assembly Bill 969. (Darcy Roberts)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The referenced information in the Initial Statement of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 15: The comment is specific to Assembly Bill 969. (Debra D. Bryant)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 16: The commenter has concerns regarding citation of an MIT study and Nye County YouTube video, conflict between the regulations, existing law, and the proposed Assembly Bill 969. Further there are concerns about insufficient information in the Form 399 and the conduct of the July 3 public hearing regarding the proposed Ballot Counting Regulations. (Amy Young)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The referenced information in the Initial Statement Of Reasons, specifically the articles and YouTube video, that detail the experience of other jurisdictions having conducted some form of a manual tally, were included to demonstrate the challenges of conducting a manual tally and were intended to assist in addressing issues that may affect how California conducts a manual tally efficiently, accurately, and securely. The challenges demonstrated in the YouTube video and articles, taking into account the totality of the record, demonstrates the need for these regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

The Secretary of State provided the Economic and Fiscal Impact Statement, also known as the Form 399, to the Department of Finance as required by the Administrative Procedures Act. The Secretary of State has determined that the proposed regulatory action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Additionally, the Secretary of State has determined that the proposed regulations would not have a cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, nor would the proposed regulation have a cost effect on small business. These proposed regulations pertain to the counting of ballots and are conducted by election officials.

Comment No. 17: The commenter is opposed to the Vote Counting Standards. The ROVs should be able to use the same methods in 1 percent or recount. Time would be better spent on vote by mail system, voter registration, and drop boxes. (DC Robb)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 18: The comment submitted is the same comment submitted above in Comment No. 16. (Elizabeth Hatch)

Response: Please see the response above to Comment No. 16.

Comment No. 19: The comment submitted is the same comment submitted above in Comment No. 16. (Laura Hobbs)

Response: Please see the response above to Comment No. 16.

Comment No. 20: The comment is specific to Assembly Bill 969. (Amy and Steve Cho)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Assembly Bill 969 is currently legislation proposed by the California State Legislature, not the Secretary of State. It is not a law and is not a component of this rulemaking action.

Comment No. 21: The commenter has concerns about vote counting machines and the Manual Tally Plan in the proposed regulations. The commenter is concerned there is no public transparency and participation in the counting process. (Alex Aliferis)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 22: The commenter has concerns with the time to submit the Manual Tally Plan, the oversight of the Secretary of State, and the sequential numbering of ballots. (Deborah Grinder)

Response: The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

The Secretary of State has the authority under Government Code section 12172.5(d) to adopt regulations to ensure the uniform application and administrative of state election laws. Under Government Code Section 12172.5(a), the California Secretary of State is the chief election official and is responsible for ensuring “that elections are efficiently conducted and that state election laws are enforced.”

The requirement for allowing the elections official two attempts to submit their manual tally plans to the Secretary of State for review remains unchanged. Section 20299 outlines the requirements for submission of the manual tally plan to the Secretary of State. This section is necessary to provide the elections official with clear requirements regarding the timeline for submission and the approval or rejection of the manual plan. Section 20299 was amended to adjust the submission timeline of the manual tally plan and require the Secretary of State to provide a list of written deficiencies when rejecting the plan. The timeline for submission was adjusted from 120 calendar days to 80 calendar days prior to the date of the election and the deadline timeline was adjusted from 90 calendar days to 70 calendars days prior to the date of the election. The adjustment to the timeline was necessary to provide the elections officials with sufficient time to develop the manual tally plan prior to conducting an election.

Section 20299(f)(8) requires that the elections official include in the manual tally plan a detailed description of the process to prepare the ballots for counting, including but not limited to the sequential serial numbering of ballots and capturing of ballot images. The serialization of the ballots is necessary to maintain the security of the ballots, prevent ballots from being lost, changed or modified through mis- or malfeasance of those who will be handling the ballots, and by capturing the ballot images, the elections official is securing a visual image for comparison, if needed, should the integrity of a ballot be questioned during the manual tally process.

Comment No. 23: The comment submitted is the same comment submitted above in Comment No. 16. (Sandra Marquez)

Response: Please see the response above to Comment No. 16.

Comment No. 24: (Bob Page)

1. 20283(c)(4) Commenter requests the provision be clarified to state that the voter's choice is only valid, if the voter's choice of voting target is clearly indicated.
2. 20283(d)(5) Commenter requests the provision be clarified to regarding whether both voter choices would be considered invalid because the voter filled in both voting position targets in a vote for one contest, creating an overvote.
3. 20299(f) Commenter requests to allow elections officials the option to modify the Manual Tally Plan, if the number of ballots cast is different than originally estimated.
4. 20300(b) Commenter recommends not having a requirement for bipartisan composition of the counting board.
5. 20303(a)(1) Commenter requests clarity regarding the serialization of ballots. Additionally, the commenter requests clarity regarding the duplication process and the use of serialized ballot numbers on the ballot.
6. 20305(a)(1) Commenter requests the ballots be scanned before they are handled by the counting boards.
7. 20305(a)(4) Commenter requests a statement of expectations regarding the audit process, potential discrepancies, and resolution of certain discrepancies.
8. 20307 Commenter requests the adoption of the proposed Election Observation Rights and Responsibilities regulations, to avoid conflict between the two sets of regulations.
9. 20313(a) Commenter requests the deletion of the reference to the election management system in this section.
10. 20314(a) Commenter requests clarification regarding this section and whether an individual chain of custody document is required for each individual ballot or batches of ballots.
11. 20351(h) The commenter requests removing the proposed language "language translation files" and using "ballot translations", as the translation of the county Voter Information Guide and other election informational documents is not relevant to a recount.
12. 20353 The commenter requests adding a subsection (f) be added to clarify the provision of relevant material and a provision that the recount requesting party not use relevant material to unreasonably extend the recount process and delay the counting of ballots.
13. 20362(c)(3) The commenter believes there is an error in the reference to subdivision (c)(1) and should be (c)(2).
14. 20372(a) The commenter requests revising the second sentence of the existing subsection (a) to make it permissive rather than mandatory.

15. 20373(a) The commenter requests making the subsection permissive rather than mandatory.
(Bob Page)

Response: The Secretary of State acknowledges this comment and appreciates the time given to review and provide public comment on the proposed regulations.

1. 20283(c)(4) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

2. 20283(d)(5) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

3. 20299(f) The Secretary of State acknowledges this comment. The Manual Tally plan updates, pursuant to section 20299(e)(2), allow for the elections official to communicate any updates needed to the plan as the Canvass process progresses.

4. 20300(b) The Secretary of State acknowledges this comment. The proposed text states, “if feasible,” and is thus not mandatory.

5. 20303(a)(1) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

6. 20305(a)(1) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

7. 20305(a)(4) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

8. 20307 The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

9. 20313(a) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

10. 20314(a) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

11. 20351(h) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

12. 20353 The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

13. 20362(c)(3) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

14. 20372(a) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

15. 20373(a) The Secretary of State acknowledges this comment. While the submitted comment does not directly address any specific adoption, amendment or repeal proposed of the updated proposed regulations, the Secretary of State appreciates the time given to review and provide public comment on the updated proposed regulations.

Comment No. 25: The comment submitted is the same comment submitted above in Comment No. 16. (Kari Chilson)

Response: Please see the response above to Comment No. 16.