



**ALEX PADILLA** | SECRETARY OF STATE | STATE OF CALIFORNIA  
ELECTIONS DIVISION

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June 26, 2020

County Clerk/Registrar of Voters (CC/ROV) Memorandum #20132

TO: All County Clerks/Registrars of Voters

FROM: /s/ Raj Bathla  
Sr. Legal Analyst

RE: Regulations: Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off  
Locations – Section 20136

The Secretary of State has adopted emergency regulations by amending Section 20136 of Chapter 3 of Division 7 of Title 2 of the California Code of Regulations. These regulations are in effect as of June 24, 2020 and will expire on February 20, 2021.

The changes made to Section 20136 provide greater flexibility to county elections officials by changing the required time for retrieving ballots from unstaffed vote-by-mail ballot drop boxes, after the 10<sup>th</sup> day before the election, from every 24 hours to every 48 hours.

The final version of the amended regulations is attached to this memorandum and is available on the Secretary of State's website at

<https://www.sos.ca.gov/administration/regulations/current-regulations1/>

If you have any questions, please feel free to contact me at [rbathla@sos.ca.gov](mailto:rbathla@sos.ca.gov) or (916) 657-2166. Thank you.

Enclosed: Notice of Approval of Emergency Regulations

**State of California  
Office of Administrative Law**

**In re:  
Secretary of State**

**Regulatory Action:**

**Title 02, California Code of Regulations**

**Amend sections: 20136**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2020-0616-01**

**OAL Matter Type: Emergency**

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This emergency action by the Secretary of State extends the time in which ballots must be retrieved from unstaffed vote-by-mail drop boxes from 24 hours to 48 hours.

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

This emergency regulatory action is effective on June 24, 2020 and will expire on February 20, 2021 pursuant to Executive Order N-40-20. The Certificate of Compliance for this action is due no later than February 19, 2021.

**Date: June 24, 2020**



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**Nicole C. Carrillo  
Attorney**

**For: Kenneth J. Pogue  
Director**

**Original: Alex Padilla, Secretary of State  
Copy: Raj Bathla**

# EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2020-0616-01E</b>
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For use by Office of Administrative Law (OAL) only

2020 JUN 16 A 9:56

OFFICE OF ADMINISTRATIVE LAW

NOTICE REGULATIONS

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**JUN 24 2020**  
1:59 PM

AGENCY WITH RULEMAKING AUTHORITY  
Secretary of State

AGENCY FILE NUMBER (If any)

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

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

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

1a. SUBJECT OF REGULATION(S) Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	20136
TITLE(S)	REPEAL
2	

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

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

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

7. CONTACT PERSON Raj Bathla	TELEPHONE NUMBER (916) 695-1597	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rbathla@sos.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Susan Lapsley</i>	DATE June 15, 2020
TYPED NAME AND TITLE OF SIGNATORY Susan Lapsley, Deputy SOS	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

JUN 24 2020

Office of Administrative Law

**California Secretary of State  
Proposed Regulatory Action:  
Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations  
Proposed Regulation Text**

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

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

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

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

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

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

(2) In the event drop boxes are deployed on the 60<sup>th</sup> day prior to an election for use by military and overseas voters, the provisions of this Article must be followed.

(d) Ballots shall be retrieved from drop boxes at times determined by the elections official, but shall be subject to the following:

(1) Ballots shall be retrieved from both staffed and unstaffed drop boxes at least every 96 hours, excluding Saturdays and Sundays, between the 29<sup>th</sup> day before the election and the 10<sup>th</sup> day before an election.

(2) Ballots shall be retrieved from staffed drop boxes at least every 72 hours, excluding Saturdays and Sundays, after the 10<sup>th</sup> day before the election through the closing of the polls on Election Day. The elections official shall develop procedures for contacting locations of staffed drop boxes between ballot retrieval periods to determine if an additional retrieval is needed.

(3) Ballots shall be retrieved from unstaffed drop boxes every ~~24~~ 48 hours, excluding Saturdays and Sundays, ~~hours~~ after the 10<sup>th</sup> day prior to an election through the closing of the polls on Election Day.

(e) Upon the closing of the polls on Election Day, all drop boxes shall be locked and covered or otherwise made unavailable at 8:00 p.m. to ensure that no ballots are dropped off after the polls have closed. In the event there are voters in line at 8:00 p.m., or a court order has been issued extending the time for the closing of the polls, the drop boxes may remain open until those voters have cast their ballot or the court order extending time has lapsed.

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