



**ELECTION**  
**SYSTEMS & SOFTWARE**

*Better Elections Every Day*

# **California Election Procedures Manual for the ES&S Optech III-P Eagle Scanner**

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# State of California

## PROCEDURES

Required for Use of the

Optech III-P Eagle Voting System

These procedures have been adopted by the Secretary of State pursuant to Elections Code sections 19100 and 19205 and shall regulate and govern the use of the Optech III-P Eagle Voting System at all elections governed by the California Elections Code.

These procedures shall be effective beginning October 22, 2004, and shall be used in conjunction with all other statutory and regulatory requirements. Insofar as feasible, all procedures prescribed herein shall be carried out in full view of the public.

These procedures constitute a minimum standard of performance. They are not intended to preclude additional steps being taken by individual elections officials to enhance the security and reliability of the electoral process.



## **Our Mission**

Our Mission is to support democracy worldwide by providing proven, accurate, and innovative election systems and services to voters and election officials.

## **Our Vision**

Our Vision is to continuously improve and grow our integrated total election solutions that provide "Better Elections Every Day." We will accomplish this vision with an uncompromising commitment to customer satisfaction and integrity within the election process.

## **Who We Are**

ES&S is a company of dedicated people building integrated systems and developing solutions for the election official's total management needs:

- Election and voter registration management software
- Ballot counting and tabulation hardware
- Election information management software

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#### FCC Compliance:

Central scanners comply with Part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.

This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to part 15 of the FCC rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

- Reorient or relocate the receiving antenna.
- Increase the separation between the equipment and receiver.
- Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
- Consult the dealer or an experienced radio/TV technician for help.

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# Introduction

The *California Election Procedures Manual for ES&S Optech III-P Eagle Precinct Scanners* contains guidelines for following election procedures adopted by California's Secretary of State according to the state Elections Code sections 19200 and 19205 and govern the use of the ES&S Optech III-P Eagle Precinct Level Ballot Tabulation System at all elections governed by the California Elections Code. Use the information in the *California Procedures Manual* to conduct all elections governed by the California Elections Code when you use ES&S Optech III-P Eagle precinct scanners.

Follow the guidelines included in the *California Procedures Manual* along with all other statutory and regulatory requirements. Whenever possible, perform all of the procedures described in this manual in full view of the public.

The procedures contained in this manual shall be effective beginning 09/20/04 and shall be used in conjunction with all other statutory and regulatory requirements. Should there be a conflict with current or future provisions of the Elections Code, such provisions shall take precedence. Insofar as feasible, all procedures prescribed herein shall be carried out in full view of the public.

The procedures described herein constitute a minimum standard of performance and are not intended to preclude additional measures implemented by individual election officials or required by the Secretary of State to enhance security for and reliability of the election process.

Consult the California Elections Code for the exact election requirements in your jurisdiction. Contact California's Secretary of State or go online to [www.leginfo.ca.gov/cgi-bin/calawquery?codesection=elec&codebody=&hits=20](http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=elec&codebody=&hits=20) for an on-line copy of the California Elections Code.

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# Contacting ES&S

Contact ES&S with any scanner or procedural questions. Support representatives are available between 8:00 a.m. and 5:00 p.m. Central Standard Time with extended support hours during election periods.

**Telephone:** 800-247-8683 (USA & Canada) or  
402-593-0101 (International)

**Fax:** 402-593-8107

**Mail:** Election Systems & Software  
11208 John Galt Blvd.  
Omaha, NE 68137 USA

# Understanding Precinct Count Systems

Jurisdictions using precinct counters count ballots at the polling place and then combine election totals at a central counting location. Each Optech III-P Eagle terminal records vote data when a voter casts a ballot. The vote data is then added to the running total for the individual terminal. When voting is complete and polls are closed, officials combine the vote results from each terminal at the polling place. Poll workers then combine all election results electronically via a modem, or by transporting scanner results to a central count location.

Election officials use 3.5-inch disks to load voting results from each polling place into the Election Reporting Manager. Use Reporting Manager to total the election results from all of your polling places and produce election reports as your vote totals are counted. Produce your official election report after data from the final precinct tabulator is loaded into the Reporting Manager.

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## Scanner Functions

Optech III-P Eagle scanners perform the following functions:

- Check the pre-printed ballot codes to determine the precinct, split, and type of each scanned ballot.
- Read voter choices for candidates or issues. The entire reading process takes seconds for each ballot.
- Check for ballot irregularities. For example, if a voter opts not to vote in one race, the scanner recognizes and records that choice. Or, if the scanner detects a torn ballot, the scanner stops and provides the operator with instructions for handling the ballot.
- Tabulate votes for each race and track the race count by precinct, as well as tracking the total ballots counted by precinct and by ballot type.
- Generate reports to show up-to-the-minute scanner totals. Save scanner results to a 3.5-inch disk, which allows results from multiple scanners to be combined and tallied at a central count location. The scanner also maintains an audit log of scanner activities.

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# 1. THE ES&S OPTECH III-P Eagle PRECINCT LEVEL BALLOT TABULATION SYSTEM

## 1.1 Introduction

The ES&S Optech III-P Eagle Precinct Level Ballot Tabulation System consists of:

1.1.1 One or more electronic ballot reading devices, hereinafter referred to as “Eagles”, or “Eagle devices” into which a voter or authorized election deputy inserts a ballot marked with the voter’s choices for candidates and choices for or against ballot measures to be voted on. Section 1.4 describes its operation more fully.

1.1.2 A marking device, issued by the election official.

1.1.3 If required, computer equipment and programs capable of reading, interpreting, and summarizing the information which has been read by the Eagle device(s).

## 1.2 Definitions

### 1.2.1 Anti-Static Padded Bag

Such a bag is provided by the manufacturer of the Optech III-P Eagle System as packing material for MemoryPacks. These bags, or bags of similar construction and materials shall be used to cover MemoryPacks during transportation whenever possible.

### 1.2.2 Automatic Read Test

In testing it is often desirable to enter a single ballot repeatedly. To do so, without the delay of the ballot moving through a complete path from throat to exit slot, the Repetition Count feature may be invoked. Under this control, the ballot will be entered at the throat, counted, exited at the throat, re-entered without handling by the tester. The number of readings is under keypad code control. This feature is only available for testing, and not during election processing.

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### 1.2.3 Ballot Ca Code 13200-13220

The printed document which provides a voter the opportunity to vote for all appropriate candidates and ballot measures by using an appropriate marking device to indicate selections in available voting positions. The ballot shall have two detachable serialized stubs.

All ballots are controlled by the Secretary of State, pursuant to California Administrative Regulations, and shall be printed with distinctive tints and designs as specified by the Secretary of State, and shall be produced and distributed in accordance with regulations adopted by the Secretary of State.

The ballot with its two perforated stubs may be of various dimensions. After removal of all stubs, the ballot may be one of these three widths: 3.75," 6.75," 9.75". The length must be a maximum of 22", and a minimum of 12". With the ballot held in portrait orientation, such as a letter or this typed page would normally be held for reading, the several parts are: a serialized binding stub at the top; followed by a serialized voter's stub, and the main processable ballot section. The binding stub is the stub stitched or stapled to a pad when the ballots are gathered, and is the part remaining affixed to the pad when the voter's ballot and attached voter stub have been removed for voting.

All voting positions on the ballot are indicated by a partially completed arrow printed opposite the names of candidates, opposite the available write-in spaces, and opposite the for or against (Yes/No) ballot measure indications. Such arrows shall be uniform throughout the ballot, and shall be of such a design as to suggest the necessity of a mark to "fill in" a blank space between the arrow head and tail, and thus indicate a voting choice.

The ballot may be scored horizontally for folding, but not vertically. The folding score shall not intersect a voting position.

If any voting position on the ballot is used for more than one candidate or ballot measure at the same election, each such ballot shall have a ballot style identification code printed thereon.

A party identification code shall be printed on each ballot at the statewide direct primary election.

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## **Write-In Voting Position on the Eagle Ballot**

For each office, immediately below the space on which the last candidate's name is printed, there shall be a space or spaces available for the voter to cast write-in votes when required. These spaces shall be equal in number to the number of persons to be elected to the office. Opposite each write-in space shall be printed a voting position arrow.

## **Ballot Classifications**

The various ballot classifications are as follows:

### *1.2.3.3.1 Blank Ballot*

A "Blank" ballot is one on which there are no voting position marks that can be read by the Eagle. It may be truly blank in all voting positions, or it may have marks in these positions which the Eagle cannot read because they are of insufficient reflectivity.

### *1.2.3.3.2 Damaged Ballot*

A ballot which has been torn, bent, or otherwise mutilated so that it cannot be processed through the Eagle device. Damaged ballots are sent to the Ballot Duplication Board for repair or duplication.

### *1.2.3.3.3 Demonstration Ballot*

This is a ballot, used for demonstration purposes, which displays a mock election. Offices are frequently fictitious; candidates are usually historical figures; and measures are obviously not serious. Such ballots may be used and re-used for demonstrations from voter to voter and from election to election.

### *1.2.3.3.4 Error Ballot*

This is a ballot whose header code does not match the header code expected by the MemoryPack for a particular precinct or ballot style.

### *1.2.3.3.5 Normal Ballot*

This is a description usually applied to a ballot which has been voted and is not distinguished by any anomaly, such as overvoted offices, damaged, blank, etc.

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“Normal” ballots are customarily directed to the Rear Bin of the Eagle Ballot Box, and are not striped.

#### *1.2.3.3.6 Provisional Voter Ballot*

A ballot issued, pursuant to Elections Code section 14310, to a voter claiming to be properly registered, and whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county election official.

#### *1.2.3.3.7 Questioned Ballot*

A ballot on which the voter’s entitlement must be verified.

#### *1.2.3.3.8 Spoiled Ballot*

A ballot issued to a voter and returned by the voter for another ballot because of an inadvertent error made during the ballot marking process.

### **1.2.4 Ballot Layout**

The ballot configuration unique to each precinct or precinct split which encompasses all candidates, including any rotation of candidate names, and ballot measures to be voted on at a specific election.

### **1.2.5 Ballot Slot Tab**

This tab, located on the top of the Eagle Ballot box, controls the covering over the ballot entrance slots over the Rear and Center Bins. It is pulled back to make the slots available for receipt of ballots processed through the Eagle. It should be pulled back just before positioning the Eagle on top of the Ballot Box.

### **1.2.6 Ballot Statement**

A comparison of the number of ballots received from the election official by each precinct board with the sum of all precinct voter voted ballots, returned absent voter voted ballots, provisional voter voted ballots, and all spoiled and unused ballots at an election.

### **1.2.7 Ballot Style**

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A particular combination of candidate offices and ballot measures to be voted on at an election. There may be more than one such combination in a given election because of offices or measures which may be voted on by fewer than all the voters at that election. The rotation of candidate names may also create additional ballot styles, as can primary election partisan ballots. The terms “ballot style” and “ballot type” are often used interchangeably.

### **1.2.8 Beeper**

The Eagle is equipped with a beeper to emit an audible signal when a condition is encountered requiring voter or operator intervention, or to confirm a processing action. This signal complements a printed message on the log/results tape. Such a signal and message would be generated, for example, in the event of a ballot jam.

### **1.2.9 CPU**

This is a commonly used abbreviation that refers to the Central Processing Unit of a computer or computer system, as distinguished from other peripheral devices or components.

### **1.2.10 Cut Marks**

These are vertically printed marks appearing along both vertical edges of an Eagle ballot. Assurance of proper ballot printing registration is given when these marks appear in corresponding positions along each edge of the ballot. Cut marks should be checked upon receipt of ballots from the printer.

### **1.2.11 Destructible Seal**

Any type of numbered device, such as a boxcar seal, used to close a container, room, or area which requires damage to or destruction of the device to gain access to the contents therein. Audit trail logs must be maintained recording the sealing, including the seal number, the date and time, and the person’s name, as well as the unsealing, including the seal number, the date and time, and the person’s name. A destructible seal is used to secure the cover of the MemoryPack housing in the Eagle. It is secured in place prior to transporting the Eagle. It is broken and removed at the polling place following printing of the results tape, such printing taking place after the closing of the polls.

### **1.2.12 Device Report**

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This report lists the serial number or other identification indicator of an Eagle device and of the MemoryPack installed therein. At the polling place the report shall be compared against the Eagle and its MemoryPack housing. This report need not be a separate document, but may be included within another control document.

### **1.2.13 Dual Precinct Processing**

Eagle firmware is capable of processing two precincts simultaneously. When so employed, the ballots for each precinct shall have discrete identifying header codes. The election shall be coded so that the log/results tape will show discrete vote totals and discrete statistics for each precinct. Combined statistics, such as total ballots processed, total ballots directed to bins, ballots striped and other counts will be printed as an aid to auditing. The discrete statistics printed for each precinct shall show, per precinct, total ballots counted and - in a Primary Election - party ballots counted.

### **1.2.14 Eagle Ballot Width Guide**

At the throat area of the Eagle, this guide must be set in place to accommodate the specific width of ballots used in a particular election.

### **1.2.15 Eagle Ballot Box Bins**

In operation, the Eagle is mounted over a three compartment ballot box. A processed ballot is directed, under program control, to one of two of these compartments, or Bins. "Normal" ballots are usually sent to the Rear Bin. Other classifications of ballots can be sent to either the Center or Rear Bin. See Ballot Path and Striping Regulations, and Table 2. The Front Auxiliary Bin is used for the temporary storage of voted ballots which have not been processed. Examples would be delivered AV ballots, Provisional ballots, or ballots voted during a power outage.

### **1.2.16 Election Official**

As used here, this term shall apply to the County Clerk, the County Registrar of Voters, the City Clerk or any other person who has been properly and legally

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charged with the responsibility of conducting the election. These Procedures shall be liberally interpreted, so that when permitted by law, the election official may deputize others to perform designated functions.

### **1.2.17 Election Coding**

This term applies to the election preparation function of providing specific election parameters to MemoryPacks using special software. These parameters include, but are not limited to, the definition of offices, candidates, ballot measures, voting positions, number of candidates to be elected, statistics to be accumulated, ballot path and striping controls, keypad utility and control codes which may be made available, plus any other election-specific parameters.

### **1.2.18 “Famous Names”**

This is a mock election ballot carrying fictitious offices, e.g., Secretary of Entertainment, and candidates who are familiar in history, e.g. Carry Nation, Babe Ruth. This ballot is intended for use not only as a demonstration item, but also as an accuracy test. It will test all scanners on the Eagle.

### **1.2.19 Header Codes**

Codes are printed in the upper front corners of a ballot, identifying it as being of a specific ballot style, political party, or other grouping. The header code may also designate the ballot as to precinct, if desired. When Dual Precinct Processing is implemented, header coding identifying each precinct separately is required. If the header coding on a ballot is not identical to that carried by the MemoryPack, that ballot will not be accepted for processing and an error message indicating that condition will be printed on the log/results tape.

### **1.2.20 Invalid Code Printing**

This can occur when the printed codes on ballots for the identification of the precinct, ballot style, or party do not match the programmed instructions in the Eagle MemoryPack.

### **1.2.18 LCD Display**

There is a four-line, 40-character per line LCD display on the front panel of the Eagle. The LCD indicates that power is on and shows a count of the number of

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ballots that have been processed. This is also referred to as the “public counter”. It displays the number of ballots processed through the Eagle up to that point. Ballot anomaly messages are also displayed in clear text on the LCD.

### **1.2.21 Indicator Lamps**

There are two LED displays on the front panel of the Eagle. The Red display indicates that power is on and shows a count of the number of ballots that have been processed. This is also referred to as the “public counter”. It displays the “Ballots Counted” statistic, which matches the count displayed on the log/results tape. The second LED display is in Green. When illuminated, it indicates that the Eagle is ready to receive ballots.

### **1.2.22 Initialization**

This is the final process of preparing an Eagle for ballot processing. At the warehouse or final testing area, before transportation or movement of the Eagle and/or MemoryPacks to the precinct or counting location, all results and statistical counters are reset to zero and a confirming message is obtained. At the precinct or central counting place, when power is applied, a report reflecting and confirming zero counts will print automatically. Following this, the Log/Results Tape will print the message, “OK TO READ BALLOTS”.

### **1.2.23 Keypad**

A 12 - key pad located under the rear door of the Eagle, used for entering selected utility codes, such as controlling a repetition count, printing totals, override, etc.

### **1.2.24 Log/Results Tape**

The Eagle Printer uses a roll of tape, similar to an adding machine tape, for displaying messages, reports and election results. During election preparation and testing the tape indicates or confirms actions taken, results generated, and that selected functions are operable. At the precinct, or at central counting, when the Eagle is first supplied with power, the tape will print, showing Ballot Statistics (zero counts), Acceptable Security Codes, and Totals (zero Counts) for all candidates

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within all offices applicable to the precinct, or precincts. This printing is an audit trail TRACKING POINT. The Precinct Board must confirm zero counts, and by comparison against sample or official ballots, confirm that the Eagle is counting all of the measures, offices and candidates expected - and no more. Measures, candidates and offices shall print in the exact order they appear on the ballot. The tape shall not be torn off until the printing of election totals following the closing of the polls (precinct count) or the processing of all precinct ballots (central count).

#### **1.2.24.1 Log/Results Tape Messages**

**Certification** - A certification message, followed by signature lines may be printed. The message attests that the statistics and results are true to the best of the Precinct Board's or Central Count Operator's knowledge. The election official may choose to implement this function or not. He/she may also choose the wording of the message.

**Diagnostic Messages** - The Eagle's log/results tape will print an appropriate diagnostic message under certain conditions. Such messages indicate a problem or condition as well as the recovery procedure. Such messages are TRACKING POINTS in the audit trail. The election official shall print a list of all possible diagnostic messages and recovery procedures, and shall instruct Precinct Boards in this matter. Where, in the judgment of the election official, there should be corrective action taken by him/her or an authorized trained deputy, as opposed to the Precinct Board, this shall be noted in the diagnostic message documentation. If the problem or condition is such that ballot processing through the Eagle must be interrupted until recovery is effected, voting shall continue. All ballots will be placed in the auxiliary front bin of the Eagle until recovery is effected.

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Utility - Utility Messages, as opposed to Diagnostic Messages, indicate a normal condition, such as “OK TO READ BALLOTS”. Utility messages may call for intervention.

#### **1.2.24.2 Log/Results Tape Reports**

Other than the messages described immediately above, the tape prints three types of reports, Ballot Statistics, Acceptable Security and Election Results (Totals). These reports are described above under “Log/Results Tape” as well as later in this document.

#### **1.2.25 Marking Device**

The election official shall issue for voter use in marking the ballot either a #2 lead pencil or a device which will make a mark complying with reflectivity specifications as published by the manufacturer of the Optech III-P Eagle System.

#### **1.2.26 MemoryPack**

A MemoryPack is an electronic cartridge which must be installed in an Eagle for the processing of ballots. A full explanation of the function of this device is presented in Section 1.4.4.

##### **1.2.26.1 MemoryPack External Serial Number**

This is a discrete number engraved into or affixed by non-removable label to each MemoryPack to specifically identify a MemoryPack.

#### **1.2.27 MemoryPack Reader**

This component serves two main functions. First, when the parameters of the election and other instructions are written or “burned” into the MemoryPack using the appropriate software, such “burning” is done through the MemoryPack Reader. Second, the MemoryPack Reader is an essential component in the Summary

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System. It is used to transfer election results from the MemoryPack to the CPU of the Summary System.

### **1.2.28 Combined Mode**

When the Optech III-P Eagle system is implemented using Eagles for ballot processing in some precincts, as well as using Eagles for ballot processing centrally, such implementation is referred to as “Combined Mode”. This is in contrast to “Solo Mode”.

### **1.2.29 Object Code**

The version of a computer program in which the source code language has been converted or translated by a compiler or assembler into the binary-code machine language of the computer with which it is to be used. These machine instructions are unique to the particular computer processor being used and can be executed directly by the computer processor without further simplification. (Contrast with “Source Code.”)

### **1.2.30 Orientation Codes**

Corner codes are printed on the ballot to indicate its orientation as it is fed into the Eagle. This obviates having to enter the ballot in only one orientation. Ballots may be entered bottom first, upside down, etc., and still be read accurately. This coding should be tested in System Proofing, q.v..

### **1.2.31 Override**

Certain classifications of ballots may, under program control, be returned to the Voter/Operator for decision or further action before processing. If permitted by these Procedures to do so, the Voter/Operator may “override” the decision or action process by causing the ballot to be accepted as is. This is done by pressing the #3 key on the keypad. During processing, the rear door of the Eagle shall be locked. In this condition, the #3 key - and no other - is available to the Voter/Operator through a finger size hole in the rear door. For further explanation, see “Ballot Path and Striping”.

### **1.2.32 Overvote**

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The condition which arises when the voter votes for more candidates than the number of candidates to be elected. In an office to which one candidate can be nominated or elected, a second vote creates an overvoted condition. The result is that no vote for that office can be tallied since the voter's intent is unknown.

In the case of ballot measures, a "Yes" vote and a "No" vote for the same measure creates the overvoted condition.

### **1.2.33 Path Sensors**

At points along the ballot's path from the throat to one of the exit slots of the Eagle are Path Sensors. These detect the presence or absence of a ballot as well as its movement. A ballot jam or lack of movement is detected by these sensors, and an appropriate error message is generated.

### **1.2.34 Repetition Count**

(See Automatic Read Test, Paragraph 1.2.1.2)

### **1.2.35 Reusable Test Deck**

This term is used to designate a stack of ballots which are not election-specific. These Procedures specify that the Reusable Test Deck shall consist of ballots carrying the "Famous Names" election. This deck is used for accuracy testing.

### **1.2.36 Secrecy Sleeve**

An envelope or folder of such design and dimensions as to hide from view the voted ballot while it is being carried by the voter from the voting booth to the stub removal station. If ballots are to be processed through Eagles in the polling place, the ballot remains in the secrecy sleeve after stub removal as the voter carries it to the Eagle.

There the voter inserts the ballot into the throat of the Eagle, taking care that the secrecy sleeve is kept back from the ballot grasping devices at the throat. (If there is no likelihood that ballot secrecy would be compromised, it is suggested that the

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voter be encouraged to remove the ballot from the secrecy sleeve prior to insertion into the Eagle.)

If ballots are to be processed centrally, the Precinct Official shall remove the stub, hand it to the voter, and thereafter let the ballot slide or drop from the secrecy sleeve into the ballot box, taking care that voting positions are not exposed to view.

Secrecy sleeves may be retained for reissue. When ballots are printed only on one side, secrecy sleeve use may not be required. In this case, the voted ballot may be carried face down.

### **1.2.37 Semi-Official Canvass**

The process of collecting, processing, and tallying ballots on election night. This may include reporting of results to the Secretary of State. The semi-official canvass may include some or all of the absent voter vote totals. The semi-official canvass is contrasted with the official canvass which begins not later than the first Thursday following the election and, for statewide elections, must result in final certification 28 days following the election.

### **1.2.38 Solo Mode**

As opposed to “Combined Mode” this term designates implementation of Eagles in all precincts, or in no precincts.

### **1.2.39 Source Code**

The version of a computer program in which the programmer’s original programming

statements are expressed in a source language (e.g., Ada, Assembler, COBOL, Fortran, etc.) which must be compiled, or assembled, and linked into equivalent machine-executable object code, thereby resulting in an executable software program.

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Source coding comprises two generic categories: Vote Tally Software; and, Data Entry Software for precinct tally systems that produce election-specific firmware. (Contrast with “Object Code.”)

#### **1.2.40 Statistical Counters**

These are counters within both the Eagles and the Summary System wherein statistical data is accumulated. Statistical data is usually referred to as any other than election results (votes for candidates). Examples would be, “Ballots Cast”, “Turnout Percentages”, and the like.

#### **1.2.41 Striping**

Ballots processed through the Eagle are deposited - under program control - into either the Rear or Center Bin. Since more than one Classification of ballot may be deposited in a Bin, it is helpful to establish another level of differentiation for purposes of audit or further action. This is done by causing the Eagle to mark certain classifications of ballots with a stripe as they proceed along a ballot path. Although striping options are many within Eagle firmware, the only VXX options are those as detailed in Section 1.4.5 herein, “Ballot Path and Striping”, and in Table 2.

#### **1.2.42 Stand-Alone Processing**

An Eagle or a number of Eagles may be used in a stand-alone implementation without a Summary System for the processing of ballots. In this case, jurisdictional totals may be accumulated manually.

#### **1.2.43 Summary System**

Normally a Summary System is used for the accumulation of jurisdiction-wide results and statistics and for the printing of reports. Within the Optech III-P Eagle system, the Summary System consists of the MemoryPack Reader, a P.C. with backup capability (normally by floppy disk, tape or both, and Report/Log

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printer(s), all operating under appropriate software. Such Summary Systems are subject to Logic and Accuracy Tests as well as System Proofing.

### **1.2.34 Tests**

#### *1.2.34.1 Accuracy Tests*

Accuracy tests verify that the vote tallying hardware is operating correctly. Accuracy testing consists of entering a known number of ballots with a known number of voted response positions into the Eagle devices. See Section 2 for a description of the testing

#### *1.2.34.2 Logic Tests*

Logic tests must be run both before and after processing official ballots for an election. The logic test group of ballots has predetermined totals for all contests on the ballot, with every candidate in a contest receiving a different number of votes than any other candidate in that contest.

The output from the logic test can be in the form of a press release bulletin, signed by the Logic and Accuracy Board prior to certification and submission of vote tally programs and files to the Secretary of State not less than seven days before the election. Each time a logic test is produced, a Logic and Accuracy Board Member, if available, should verify and sign the output.

### **1.2.44.3 System Proofing**

System proofing verifies that all materials, files, and programs for an election are correctly prepared. This proofing is normally done in approximately two weeks, during the period consisting of 40 days to approximately 14 days prior to election day. Accuracy and Logic tests are included in system proofing.

### **1.2.45 Time Control Feature**

This feature, when implemented, will cause a cautionary message to be printed on the Log/Results tape if an effort is made to open or close the polls before predetermined times of day. Other messages and reports printed on the Log/Results tape will carry a time of day indication.

### **1.2.46 Tracking Point**

A tracking point establishes an audit trail during the canvass.

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### **1.2.47 Vote Both Sides Notification**

The notation/instructions printed at the bottom of each side of the ballot urging the voter to vote both front and back sides of the ballot when the ballot is printed on both sides. Such notification is mandatory.

### **1.2.48 Voter/Operator**

This term is used to indicate an either/or condition. When the ballot is inserted into the Eagle by the voter, the instructions herein apply to the voter; when by the central count operator the instructions apply to that person.

## **1.3 Description of the ES&S Optech III-P Eagle in Precinct Ballot Tabulation System**

The OPTECH III-P Eagle is an electronic voting system which is comprised of election definition and ballot generation software, ballots, a vote counting device and its associated firmware, and report generating software. A Summary System, providing for the accumulation and reporting of results and statistics jurisdiction-wide, can be incorporated.

### **1.4.1 Ballots and Marking Devices**

The OPTECH III-P Eagle uses a mark-sense ballot which may vary from one column (3.75 inches) to three columns (9.75 inches) in width, and from 12 to 22 inches in length. Each column of the ballot consists of one or more contests, each with one or more candidate selection positions. The ballot may be printed on one or on both sides.

At the right hand edge of each selection position are printed the head and tail of an arrow pointing to the name of the candidate. The arrow is printed in bold typeface, approximately 0.63 inches long, with a break in its center which is approximately 0.25 inches long. The voter uses a marker to connect the head and tail of the arrow, thereby selecting a choice.

Several types of marking devices are suitable for use with the OPTECH III-P Eagle. A felt marking pen which produces a mark of adequate reflectivity is the

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preferred instrument. The reflectivity specifications of such markers are available from the manufactures of the Optech III-P Eagle System. A #2 lead pencil can also be used. Issue of suitable marking devices by the election official is mandated.

### **1.4.2 Ballot Counter**

The OPTECH III-P Eagle ballot counter is intended to be used either in the polling place or for central counting. It is a portable device which measures approximately 18.5 inches wide, 23 inches long, and 7.5 inches high. Its exterior is a high-impact plastic case with a cover which can be removed for device preparation and servicing.

The voter places a voted ballot on the platen at the front of the device, and moves the ballot into the ballot entry slot. The presence of the ballot in the slot causes the drive motor to be energized, and the ballot is taken into the device for processing. After the ballot has passed through the read station and the voting marks on it have been interpreted, it is discharged through one of two slots in the bottom of the device into a two-bin ballot box. Ballot boxes are available in either metal or plastic.

Plastic Ballot Box dimensions are: 30.5" H x 24.0" W x 40.0" L

Metal Ballot Box dimensions are: 29.5" H x 19.0" W x 22.5" L

Two indicating lamps and a 4-digit counter are on the front of the device, where they can be observed by voters and polling place officials. One of the indicating lights is red, signifying that electrical power is on. The other indicating light is green, signifying that the device is ready to accept a ballot. The 4-digit counter displays the number of ballots which have been processed since opening the polls.

On the rear face of the device is a lid, secured by a lock, which can be opened by the polling place official or maintenance technician to install or remove the MemoryPack, to enter control codes on a 12-key pad, or to service the printer.

The top cover of the device may be removed, using the proper key, for access to the internal components, either for servicing or for corrective maintenance. In the event that a ballot is jammed in the process of returning it to the voter as the result of a error in reading the ballot, it may be necessary to remove the top cover to clear the jammed ballot by manually advancing it in the forward or rearward direction.

### **1.4.3 Election Coding**

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Prior to use in any election, the Eagle must be put in readiness to process ballots for that election through the use of coding software. This software describes the offices, measures and voting response positions. It describes the number to be elected to each office, the results to be accumulated, the statistics to be accumulated, the reports and messages to be printed, the selection of ballot path and striping options and other parameters of a specific election. This software transfers these parameters, which are precinct or ballot style specific, to MemoryPacks via a MemoryPack Reader.

#### **1.4.4 MemoryPack**

The MemoryPack is a RAM (Random Access Memory) device which contains the information required to identify the election and the ballot format for which it is programmed, the applications program, the voting data from the ballots which have been processed, and other ballot processing control functions.

The MemoryPack serves as a medium for the temporary short term storage of this data before it is read into the Summary System. Once this data is so transformed, the MemoryPack may be cleared of totals so that Logic tests may be performed and so that it may be used for processing other ballots in the current election, and be made available for future elections.

MemoryPacks do not come within the purview of Sections 1811-1833 of the Elections Code (***Question: What are Sections 1811-1833 and whose Code are they in?***); that is, they may be made available for use in other elections and need not be in a sealed condition nor made inaccessible for the periods cited in these Election Code sections.

If required, the election can be reconstructed from original ballots, a duplication of original coding and reference to the various tracking points mandated by these Procedures.

#### **1.4.5 Ballot Path and Striping**

There are three paths that can be taken by a ballot after it is placed in the throat of the Eagle. These paths are under program control. The first path directs a ballot to the Rear Bin, ordinarily used to store counted ballots which require no further processing.

The next path directs a ballot to the Center Bin, which is ordinarily used to store counted ballots which require further action, such as determining the validity of, and the counting of write-in votes.

In addition to selecting a Rear or Center Bin path for a ballot, the software may be invoked for striping certain types of ballots. This feature is normally employed to distinguish between ballots with different conditions which may have been directed to the same bin.

The next path is reversal of the ballot direction, so that it is made available to the Voter/Operator for corrective action or decision before being counted.

Finally, a Front Auxiliary Bin is available for the temporary storage of voted but uncounted ballots. A Front Auxiliary Bin can be used during periods when the Eagle may be without power or otherwise not functioning.

Ballots which are directed to the Rear Bin and the Center Bin will cause the statistical counters to increment. Example are , “Ballots Counted,” “Overvotes,” etc.

While the permutations of ballot direction and striping options are numerous, it is not the intention of this document to list all possible combinations of options and to promulgate regulations governing their individual exercise. Rather, the requirements for ballot direction and striping are mandated according to Table 2 which follows. In interpreting this table, “Combined Mode” indicates that ballots are processed in some precincts through Eagles, while ballots from other precincts are counted centrally through Eagles. The term “Solo Mode” indicates processing entirely at the precinct level or entirely at a central counting facility.

As used in the table or elsewhere in this document, the term “Normal” refers to ballots which are not damaged, have no write-ins nor overvotes and are not blank. The term “Blank” refers to ballots which are either without any marks in voting positions or which carry marks that cannot be read because reflectivity is not within specifications. The term “Damaged” refers to ballots which cannot be read because of tears or obliterations. The term “Write-In” refers to ballots which carry write-in votes for one or more offices. A ballot is not characterized as a “write-in” ballot unless the arrow graphic opposite the write-in space is properly marked by connecting the arrow head and tail with a voter mark.

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The term “Overvoted” refers to a ballot where the voter has selected more candidates (including write-ins) than are to be elected to an office. Selecting both the “yes” and “no” responses to a ballot measure also creates an overvote.

The term “override” refers to the situation where an uncounted ballot is returned to the Voter/Operator for corrective action (usually remake and replacement); but the Voter/Operator opts instead to have ballot processed as is. When such a ballot is encountered, it is not fully discharged from the throat of the Eagle. The option to “override” the return action is exercised by the precinct official or the central count operator pressing the #3 button on the keypad. When this is done, ballot movement is reversed once more and it is passed along a selected path for striping (optional), processing and deposit into a bin. The #3 button is the only button available to the precinct official or operator during processing. The override option is not permitted with respect to damaged ballots.

The intent of the ballot path and striping regulations as displayed in Table 2 is to treat all voters in the same manner while conforming to the requirements of the Elections Code. Should an election official desire a change in these path and striping regulations, such may be granted by the Secretary of State following a review of the official’s written request.

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**Table 2**

**BALLOT PATH AND STRIPING REGULATIONS**

BALLOT CONDITION COUNT	PRECINCT COUNT	CENTRAL COUNT	PRECINCT COUNT	CENTRAL COUNT	ABSENTEE
	Combined MODE	Combined MODE	SOLO MODE	SOLO MODE	
<b>NORMAL BALLOTS</b>	REAR BIN NO STRIPE	REAR BIN NO STRIPE	REAR BIN NO STRIPE	REAR BIN NO STRIPE	REAR BIN NO STRIPE
<b>BLANK</b>	REAR BIN STRIPE	TO OPERATOR. MISMATCHED TO DUPLICATION. OVERRIDE A TRUE  BLANK; REAR BIN	TO VOTER FOR ACTION. OVERRIDE TO REAR BIN	TO OPERATOR. MISMATCHED TO DUPLICATION. OVERRIDE A	TO OPERATOR. MISMATCHED TO DUPLICATION. OVERRIDE A  TRUE BLANK; REAR BIN
<b>DAMAGED BALLOTS</b> BALLOT	TO VOTER. BALLOT REMAKE  IS MANDATORY DUPLICATION BOARD	TO OPERATOR. THEN TO BALLOT  IS MANDATORY	TO VOTER. BALLOT REMAKE  IS MANDATORY	TO OPERATOR. THEN TO BALLOT  DUPLICATION BOARD	TO OPERATOR. THEN TO  DUPLICATION BOARD
<b>WRITE-IN BALLOTS</b>	CENTER BIN NO STRIPE. TO WRITE-IN BOARD	CENTER BIN NO STRIPE. TO WRITE-IN BOARD	CENTER BIN NO STRIPE. TO WRITE-IN BOARD	CENTER BIN NO STRIPE. TO WRITE-IN BOARD	CENTER BIN NO STRIPE. TO WRITE-IN BOARD
<b>OVERVOTED BALLOTS</b>	REAR BIN NO STRIPE	REAR BIN NO STRIPE	TO VOTER. ALLOW RE-ISSUE. OVERRIDE TO REAR BIN, NO STRIPE	REAR BIN NO STRIPE	REAR BIN NO STRIPE
<b>ERROR BALLOTS</b>	TO VOTER. PRC BOARD HOLD FOR DECISION	TO OPERATOR TO ELECTIONS OFFICIAL FOR DECISION	TO VOTER. PRC BOARD HOLD FOR DECISION	TO OPERATOR. TO ELECTIONS OFFICIAL FOR DECISION	TO OPERATOR. TO ELECTIONS OFFICIAL FOR DECISION

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## 1.4 Summary System

While one Eagle or a group of Eagles is sufficient for processing ballots, it is preferable to accumulate summary data and print reports through the use of a Summary System. Such a system consists of a MemoryPack Reader, a personal computer, a printer or printers, a Floppy disk drive and/or tape drive for periodic backups, and software to effect the summary process. Input to this system is a MemoryPack from an Eagle which has previously processed the ballots for an individual precinct or absentee ballot style. This is carried into the Summary System through a MemoryPack Reader.

When used in an election, the Summary System is considered as an integral part of the overall system, and is subject to the diagnostic testing, system proofing, logic testing and accuracy testing described herein.

## 2. PRE-ELECTION DIAGNOSTICS, TESTING AND PREPARATION REQUIREMENTS - TESTING PROCEDURES

Functions are outlined in these procedures in five stages or components: Diagnostic Tests, System Proofing, Accuracy Testing, Logic Testing and Final Preparation.

Eagle testing set forth in this section shall include every Eagle to be used. Where MemoryPack testing is indicated, such shall be for every MemoryPack. It is not required however, that each Eagle be tested with every MemoryPack.

The test procedures described herein are a required MINIMUM and do not preclude additional testing performed at the option of the election official.

In addition to the following test procedures, those counties which provide election night results on-line to the Secretary of State must conduct tests required by that office to ensure accurate and timely submission of semi-official canvass results, and must include hardware and telephone lines used for that purpose in all tests required.

All tests will be conducted using test materials specified herein in such a manner as to meet these guidelines. All tests shall result in reporting that matches predetermined results. Reports and test materials must be retained as in Section 2.8.

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## 2.1 Eagle DIAGNOSTIC TESTS

Prior to use in either the central counting mode, precinct counting mode or combined mode (combination of precinct and central counting), diagnostic tests shall be performed on every Eagle to be used in the election. The following diagnostic tests shall be performed within 50 days prior to the election. The manufacturer of the Optech III-p Eagle System has published detailed, specific instructions for the performance of these tests, including instructions for corrections of, or recovery from, malfunctions. If malfunctions are encountered, such corrections and recovery procedures shall be implemented. Manufacturer's instructions are on file with the office of the Secretary of State and are incorporated herein by reference.

2.1.1 Test that the Eagle processor is capable of generating a signal to drive the beeper. The beeper generates an audible signal during ballot processing indicating the need for Voter/Operator attention or action, or the confirmation of an action.

2.1.2 Test that the Eagle motor can be controlled by the CPU.

2.1.4 Test that the read head illumination lamps are functioning.

2.1.5 Test that the red stripe pen will activate. It is important that at all times when the Eagle is not in processing or testing use, the pen be firmly capped. It is recommended that pens be examined for a dried out condition prior to each use and that they be replaced if necessary.

2.1.6 Test that all path sensors are clear and functional. A path sensor detects the presence of a ballot at various stations along its transport path.

2.1.7 Test that the public counter display is functional.

2.1.8 Test that the log/results tape is functioning properly. Test that the printer ribbon is installed correctly and is properly inked.

2.1.9 Test that ballots are transported as selected for their condition and further that they are striped or not striped as selected. (See Table 2, Ballot Path and Striping Regulations, for further explanation.)

2.1.10 Test that time and date are properly set for printing on the log/results tape and that they can be adjusted if needed.

2.1.11 Test that the Automatic Read Test feature can be invoked.

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2.1.12 Test that the Eagle is set to read the correct number of columns on test ballots.

## 2.2 SUMMARY SYSTEM DIAGNOSTIC TESTS

Prior to use, diagnostic tests shall be performed on the Summary System. These tests shall be performed within 50 days prior to the election. If malfunctions are encountered, corrections shall be made and recovery procedures implemented.

2.2.1 Check all cabling and connections for each hardware component to be used.

2.2.2 Implement such diagnostic tests as are available from the manufacturer(s) of the Summary System computer and peripherals.

2.2.3 Insert a MemoryPack into the MemoryPack Reader. This need not be an election specific Memorypack, but shall contain known results from a previous election, demonstration or test.

- Test that the MemoryPack can be seated properly without difficulty.
- Cause the data to be read into the Summary System.
- Cause a Precinct Report to be printed.
- Remove the MemoryPack and repeat the entire process.

2.2.4 Cause a Cumulative report to be printed:

- Check that the report accurately reflects the accumulation of data from the two

MemoryPacks.

- Check for the proper functioning of the printer(s).

2.2.5 Cause the print files to be written to a disk:

- Print 2 precinct reports and a cumulative report from the disk.
- Observe that these reports match the previously printed reports.

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## 2.3 BALLOT SPECIFICATIONS DIAGNOSTIC TESTING

Upon receipt of official ballots from the printer the election official shall refer to the Ballot Inspection Procedure which is available from the Secretary of State, having been filed by the manufacturer of the Optech III-P Eagle System. Said Procedure is incorporated herein by reference. The election official shall inspect ballots according to said Procedure to be sure that they meet certain minimum criteria for the following:

1. Ballot Format: with respect to number of columns, front and back printing, the inclusion of all ballot styles, precinct identifications if expected, and within each ballot style the listing, in proper order, of offices, measures, candidates and response positions.
2. Ballot Paper Stock: use an appropriate measuring device, or accept the printer's written declaration.
3. Ballot Width Accuracy: measure according to specifications.
4. Printing Registration Relative to Edges of Ballot: ensure that cut marks appear consistently along each edge.
5. Check ink density reflectivity for readable marks.
6. Check for Voids in Readable Areas: there shall be no extraneous printing such as dots, splashes, etc. in the empty area inside the oval, nor in the header coding area.
7. Check the readable oval mark size.
8. Check the ink offset
9. Check for ink bleed through and smears
10. Check any slits and/or perforations.
11. Positioning of fold scores: ensure these do not intersect voting positions.

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## 2.4 SYSTEM PROOFING

2.4.1 System proofing is the mandatory preliminary, in-house testing of all phases of election preparations except for the Logic and Accuracy (L&A) tests of the computer hardware and software used to tally and summarize votes. System proofing shall include, but not be limited to, verification of the correctness of the following:

- Assignment of jurisdictions participating in the election to ballot styles;
- Linkage of precincts in which the election will be held to ballot style;
- Ballot content for each ballot style to include: offices, district designations, candidate assignment and rotation, and ballot measures, all in the proper sequence;
- Printing of official ballots, including instructions, candidates' names, political and/or occupational designations, number to be elected, candidate rotation (where applicable), ballot measures, voting positions, and all column and office headings and designations;
- Formatting of ballots into sample ballot pamphlets for each ballot style, header code printing, precinct identification (if used), start and stop lines, fold scoring, numbering, padding, and verifying ballot dimensions by suitable means;
- Election night summary report format;
- Eagle firmware's recognition of and response to precinct header codes, and ballots that are damaged, or improperly marked;
- Eagle firmware's ability to accept ballots with correctly printed header codes, and to reject ballots with incorrectly printed header codes;
- All phases of preparation and assembly of Eagle devices as described variously herein;
- Voter registration data for jurisdictions participating in the election; and

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- Testing of 100% of the MemoryPacks to be used in the election with a MemoryPack Testing Log to include: MemoryPack serial number; precinct number; date tested; results of test (GOOD, NO GOOD); and printed name of test personnel.

### **2.4.2 Exception Processing**

Exception Processing is part of system proofing and includes a test to determine whether the system properly responds to error or anomaly conditions. At least ten days prior to each election a deck shall be prepared which will cause all non-destructive<sup>1</sup> errors or anomalies for the Eagle device, its firmware, and the edit or counting programs. The Eagle device is tolerant of ballots introduced in orientations which could be considered anomalous, such as upside down or reversed. This tolerance should be tested by introducing test ballots in these orientations. The exception processing test should contain, but is not limited to, the following types of conditions, if they apply to the system:

- upside down ballots;
- reversed ballots;
- ballots torn in various places.

Exception testing is also required to assure that the error condition of extraneous clock marks is detected.

### **2.4.3 “Error” Test Ballots**

Six ballots shall be prepared, one ballot for each votable track on a double sided 3 column ballot, four ballots for a double sided 2 column ballot, and two ballots for a double sided single column ballot. One extra clock mark (voting position arrow graphic) shall be made in an active column of the ballot. The extra clock mark shall be drawn between the ballot start bar and the ballot stop bar and shall be drawn to approximate the thickness and dimension of the printed clock marks. Tests for

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“error” test ballots will comply with the Ballot Path and Striping regulations adopted by the election official. Applicable regulations are presented herein in Table 2.

Additional errors should be tested, depending on edit or counting program.

For exception processing the ballot tally program(s) must be used. Program restarts or equipment resetting are allowed for this test.

## 2.5 Preconditions for the Performance of Logic and Accuracy Tests

2.5.1 Prior to running Logic and Accuracy Tests, the following must be assured: diagnostic tests on all equipment shall have been performed to include verification of firmware being used; ballot test decks shall have been prepared as specified herein; all MemoryPacks to be used for Logic testing shall have been coded with the current election; all MemoryPacks to be used for Accuracy testing shall have been coded with the “Famous Names” election, or with a similar fictitious election that will provide compliance with Section 2.6 herein; all MemoryPacks shall be initialized, and an “OK TO READ BALLOTS” message displayed on the LCD prior to processing test ballots. Documentation must be prepared to show the known and expected voting and statistical results, said documentation to be compared against that produced as a result of the tests.

## 2.6 ACCURACY TESTING

Accuracy testing consists of those processes and procedures necessary to ensure hardware to be used in the election is working properly, both as individual units and as a combined system.

Emphasis is placed on verifying that Eagles can read every permissible mark on the ballot, and that individual components as well as the interface between them function as required. These tests shall be run BEFORE Logic Testing in order to assist in isolating problems.

Accuracy tests are an integral part of equipment maintenance and may be run as often as necessary before each election to ensure proper functioning of hardware to be used in the tallying process.

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### 2.6.1 Performance of Accuracy Tests

Accuracy tests shall be performed prior to Logic and Accuracy Certification (including amendments and recertification, if necessary) to the Secretary of State and again within 72 hours prior to processing ballots on election day. The accuracy tests may be run more frequently and shall be run after equipment has had maintenance work. Any failure of the equipment to perform as expected shall be corrected before using that equipment for election processing, and any ballots tallied on equipment which failed shall be recounted.

In the event any Eagle fails after official ballot processing has begun, accuracy tests must be successfully run on the (failed) component after it has been repaired, replaced, or adjusted (in a manner deemed sufficient by the responsible election official to require retesting for accuracy), provided the component is to be returned to service. Diagnostic tests of hardware on election night are permitted.

A loss of power is not to be considered a failure for purposes of this paragraph, unless there is no recovery. Upon recovery from a power loss, all counters are restored to previous levels and a confirmation prints.

### 2.6.2 Preparation of Accuracy Tests

The responsible election official shall cause the accuracy test deck to be prepared and tested. Predetermined results of accuracy test must be available for inspection and sign off by the Logic and Accuracy Board.

### 2.6.3 Reusable Accuracy Test Deck

A reusable test deck consisting of 165 pre-printed ballots conforming to a “Famous Names” election is used to test the accuracy of each Eagle device in order to meet the requirements for annual testing. The test deck specifications and/or the test deck itself is available from the manufacturer of the Eagle equipment. A proper test deck consists of ballots of six different colored paper stocks with pre-printed ballot information as well as pre-printed vote marks. The ballots are printed on both sides with a demonstration election. The pre-printed vote marks are printed intentionally thin to represent the minimum specified acceptable line width. A standard test deck contents are as follows:

Ballot Style	Description	Quantity	Color
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F1	1st Position	10	Blue
F2	2nd Position	20	Green
F3	3rd Position	30	Buff
F4	4th Position	40	Canary
F5	5th Position	50	Cherry
F6	Write-In #1	3	White
F7	Write-In #2	3	White
F8	Over Voted	3	White
F9	Error	3	White
F0	Blank	3	White

This deck may be reduced to a 62 ballot deck for re qualification of manually fed Eagle devices which have been tested annually with the 165 card deck. The 62 ballot test deck is adequate for the performance of the Accuracy test for a specific election, provided that such election follows within one year of the annual testing. In such event the following ballot counts would be utilized.

F1	1st Position	10	Blue
F2	2nd Position	10	Green
F3	3rd Position	10	Buff
F4	4th Position	10	Canary
F5	5th Position	10	Cherry
F6	Write-In #1	5	White
F7	Write-In #2	5	White
F8	Over Voted	1	White
F0	Blank	1	White

This deck is made by removing certain ballots from manufacture’s 67 ballot test deck. Remove the Error Ballot and each of the four ballots labeled “Straight Party”. Note that on none of the ballots in the deck is the Straight Party office voted, such voting not being permitted in California.

The test decks described above for performance of the annual and pre-election Accuracy tests may be substituted with other test decks, provided that they meet the specifications for test decks set forth herein and provided that prior approval has been granted by the Secretary of State.

#### 2.6.4 Accuracy Test Report

When the Reusable Test Deck is processed utilizing the Eagle and standard “Famous Names” Test Election MemoryPack it will produce a report showing votes per voting position as shown in Table 1 (this section). This test verifies the ability of the Eagle devices to read ballots, correctly process the data and print out

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the results. Within forty days before each election, the Reusable Test Deck shall be run at least twice through each Eagle.

## 2.7 Logic Testing

Logic testing consists of those processes and procedures necessary to ensure that the vote tally programs and hardware correctly interpret, summarize and report voters' marks for a specific election. This is normally a series of tests utilizing test ballots which are made from actual printed ballots, and accumulation of results from individual Eagles by transferring results from the MemoryPacks via a MemoryPack Reader to the Summary System.

Successful testing will demonstrate that: each candidate and ballot measure receives the proper predetermined number of votes; the system reports the proper number of over and under votes; the system accepts only the proper ballot styles and rejects improper ones; the system is capable of counting the maximum number of ballots possible for a precinct.

Logic tests will be conducted using test materials below in such a manner as to meet these guidelines. All tests shall result in reporting that matches predetermined results. All reports and test materials must be retained as in Section 2.8.

### 2.7.1 Performance of Logic Test(s)

Pre-Election Tests:

- An election-specific Logic Test shall be performed on 100% of the MemoryPacks to be used. This logic Test may begin within 30 to 50 days of the election and should be of sufficient duration to assure its adequacy. As each

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MemoryPack is successfully tested, it should be certified, identified and placed in security until needed.

- The Summary System Logic and Accuracy Test shall employ one MemoryPack of each ballot style.
- Election Night Testing of upload and report production procedures shall be tested.
- Summary System Logic Test shall be performed prior to and following election night tabulation, the latter test to occur after the Official Canvass period is concluded.

Post-Election Testing:

- For the Official Canvass conduct a Summary System Logic Test Prior to processing.
- Following the Official Canvass, conduct Accuracy Test for 100% of the Eagles, a Logic and Accuracy Test for the Summary System, and a 100% MemoryPack Logic Test.
- It is suggested that zeroing of MemoryPacks not be implemented until the Eagle results tape for each precinct is compared against Summary System Precinct reports to assure that they match.
- The predetermined results for balancing of election processing must be available for inspection and sign off by the Logic and Accuracy Board described in Section 8.4. The official Logic test must be completed, certified, and received by the Secretary of State seven days before each statewide election. It must accompany official copies of the ballot tally programs and files.
- All ballot tally program(s) and hardware must remain operative from the time of the pre-ballot processing logic test, through the processing of all voted ballots, to the post-ballot processing logic test. Any condition which requires Eagle to be re-initialized, shall require a new set of logic testing and shall require that all ballots / MemoryPacks processed since the last successfully completed logic test be rerun. A power failure normally does not necessitate re-initialization. At

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the time power is re-applied, a log/results tape report prints showing that all counters have been restored to previous levels.

- The logic test ballots, and MemoryPacks shall be tabulated, using the Eagle devices and Summary System. The resulting logic vote tallies shall be compared in detail with the predetermined logic vote tallies. Any differences between the two logic vote tallies shall be resolved, and logic testing shall be performed as many times as may be necessary to achieve a logic vote tally which is identical to the predetermined logic vote tally. This process shall also be done for any absent voter test ballots that are subject to separate logic and accuracy testing. After balancing the two logic vote tallies, the logic test ballots and the run-time documentation shall be locked in a facility with restricted access or sealed. Logs or records shall be maintained, recording each performance of the logic test and by whom.

## **2.7.2 Preparation of Logic Test Materials**

The responsible election official shall cause the following logic test materials to be prepared and tested:

### **2.7.2.1 All ballot styles**

A logic ballot test deck and MemoryPacks will be prepared for all ballot styles to be used in the election. This logic test deck is composed of regular official ballots, and shall be marked "TEST" Within 30-50 days of the election, a 100% MemoryPack Logic Test will occur. Logic Tests for the Summary System shall be for a minimum of one MemoryPack per ballot style.

### **2.7.2.2 Logic Test Data**

Two identical sets of test ballots shall be created for each ballot style used in the election. For purposes of testing, the election official may use either the primary or back-up logic test deck, but the backup logic test deck must be subject to the same security provisions as is the primary logic test deck. The logic test ballots shall be distinctively marked "TEST", and shall include:

#### **2.7.2.2.1 Voted Test Ballots**

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A group of test ballots shall be voted. Optionally, they may be marked with a repetition count which indicates the number of times that ballot is to be inserted and re-read for each candidate for every office on the ballot to receive a predetermined number of votes which are different from the number of votes received by any other candidate for the same office. Also, the number of “yes” votes on any ballot measure shall be different from the number of “no” votes. In the case of offices for which the voter is allowed to vote for more than one candidate, at least one ballot of the group shall be voted with the maximum allowed number of choices. The ballots prepared will be repetitively entered into the Eagle device the number of times required by the repetition count.

For purposes of this test, write-in positions shall be treated as declared candidates.

No office or ballot measure shall be voted in more positions (overvoted) than are allowed for the office or measure.

#### **2.7.2.2.3 “No Votes” Test Ballots**

One “no votes” test ballot shall not contain any marks other than those needed for precinct or ballot style identification. This test should result in undervotes being cast for each contest in every occurrence in the test. Tests for “no votes” test ballots will comply with the Ballot Path and Striping regulations adopted by the election official. Applicable regulations are presented herein in Table 2.

#### **2.7.2.2.4 “Recall Measure and Candidates Contest” Test Ballots**

Recall elections, conducted in accordance with California state recall rules and laws and which include two official candidates, shall consist of a series of at least fifteen test ballots shall be prepared as follows:

1. Marked “Yes” only.
2. Marked “No” only.
3. Marked “Yes” and for the first candidate

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4. Marked “No” and for the first candidate
5. Marked “Yes” and for the second candidate
6. Marked “No” and for the second candidate
7. Marked “Yes” and for both the first and second candidate
8. Marked “No” and for both the first and second candidate
9. Marked both “Yes” and “No” and for the first candidate
10. Marked both “Yes” and “No” and for the second candidate
11. Marked both “Yes” and “No” and for both first and second candidates
12. Marked both “Yes” and “No” only
13. Marked for first and second candidate only
14. Marked for first candidate only
15. Marked for second candidate only

When the recall election has more than two candidates, additional test ballots shall be marked for each additional candidate with a “Yes” vote and a vote for the candidate, in each ballot. The third candidate should get 4 ballots, ;the fourth should get 5 ballots, etc.

When there is a recall and only one official candidate, test ballot card sets, numbered 1, 2, 3, 4, 9, 12, and 14 only shall be prepared.

### **2.7.3 Certification of Logic Test**

Logic test requirements apply to all elections; however, submission of the seven day certification of logic testing to the Secretary of State is required only prior to statewide elections and elections to fill vacancies in the legislature or congress.

## 2.8 Retention of Test Materials and Results

The successful logic and accuracy tests, conducted at the time of certification (or recertification, if necessary) to the Secretary of State, storage logs or records, if any, and balancing reports, if any, shall be retained as long as the ballots are kept for the election. The official logic test ballot cards used for balancing prior to and upon completion of processing official ballots shall also be kept for as long as the ballots are kept. Back-up decks and other test decks may be destroyed or used to train operators for other elections. MemoryPacks need not be retained (See Section 3.7.5.8.7)

## 2.9 Logic and Accuracy Board

The election official shall establish a Logic and Accuracy Board pursuant to Section 8.4 to complete certification of testing. Not later than seven days before each statewide election, the Secretary of State must receive a copy of the Logic and Accuracy Board's certification. For local and district elections, the Logic and Accuracy Board members shall submit their copy of the Logic and Accuracy Board's certification to the local election official conducting the election.

A copy of a sample certificate is attached to these procedures as Appendix A.

## 2.10 Ballot Tally Programs

The election official shall send ballot tally programs to the Secretary of State pursuant to Section 8.5. These must be received by the Secretary of State no later than seven days before each statewide election.

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## 2.11 Election Observer Panel

The election official shall establish an Election Observer Panel pursuant to Section 8.3.

## 2.12 Hardware Maintenance

Ballot counting equipment must be maintained in a satisfactory manner in accordance with vendor specifications, where available.

Individual component testing, and maintenance if necessary, shall be performed by qualified personnel within 50 days before each election. At the time of this writing, such hardware consists of Eagle devices as described herein, and the Summary System (if employed). The Summary System includes one or more MemoryPack Readers, one or more Personal Computers, with printer(s) and optional tape drives as added backup.

## 2.13 Preparation Of Eagles for Precinct Use

Prior to transporting Eagles to polling places and/or setting in place for central counting, the election official shall:

2.13.1 Set the Ballot Width Guide Bar, so that ballots to be used in the election can be accepted according to their width.

2.13.2 Insert each MemoryPack (programmed for the election, and carrying appropriate precinct(s) and/or ballot style identification) into an Eagle. Complete the initialization procedure, beginning with the predetermined access code. Thereafter, effect initialization. The log/results tape will print messages that initialization is complete, a message displaying precinct or ballot style identification followed by a display of statistical data and vote totals set to zero. The final message is "OK TO READ BALLOTS."

If the MemoryPack cannot be initialized, it shall not be used. If possible, initialization should be witnessed by the Logic and Accuracy Board or Election Observer Panel. A log will be maintained reflecting the MemoryPack identification number and indicating precinct(s) or absentee ballot style, date tested, Eagle used,

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results of test and signature of the tester. The log will be provided to the Logic and Accuracy Board.

### **2.13.3 Final preparation of Eagles for precinct use:**

Each Eagle to be used in a polling place shall at this time be equipped with the MemoryPack for the precinct(s) where it is to be used. It shall be properly identified and sealed within the MemoryPack compartment. The rear door and hinged cover of the Eagle shall be locked. Keys shall be labeled or otherwise identified, and placed in the custody of the election official, for subsequent delivery to the Precinct Board.

## **2.14 Final preparation of Eagles for central count use:**

Eagles which are to be used for the central counting operation shall be maintained in a sealed condition or environment until they are moved to the central counting room. They shall not be equipped with MemoryPacks, nor shall the rear door be locked. The hinged cover may be locked. Keys shall be under the supervision and control of the election official.

All MemoryPacks to be used for central counting shall be suitably labeled and maintained under lock or seal until such time as they are to be employed for tabulating.

# 3. ELECTION PROCEDURES - PROCESSING BY EAGLES AT A CENTRAL COUNT FACILITY

Many of the procedures presented herein are supported by illustrations when presented as instruction to Election Boards.

## 3.1 Inspection and Delivery of Precinct Supplies.

1. Instruct the appropriate precinct worker(s) to make the following checks of their election supply items prior to Election Day.
2. Check all pads of ballots to ensure that ballot style, serial numbers, and precinct numbers (if used) are printed on the ballots correctly.
3. Report any problems to the election official responsible for the election.
4. Supplies necessary to conduct elections at polling places shall be delivered as follows: ballots shall be in the quantity and manner required by the Elections Code and demonstrator ballots marked for demonstration use only will also be included.
5. In elections that contain partisan offices, ballots may, as directed by the Secretary of State, be appropriately tinted to reflect which partisan office appears on a specific ballot.
6. Demonstration placards, signage and "Vote Here" indicators.
7. General purpose optical scan voting system precinct supplies to include ballot secrecy sleeves, ballot marking devices, two sample ballots of each ballot style and in each language required to be voted on in the precinct, and seals, as well as any other supplies and forms deemed necessary.
8. A Certificate of Packaging and Sealing, in duplicate, together with a self-addressed stamped business reply envelope, addressed to the responsible election official.

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9. The election official shall check that one Eagle with a MemoryPack has been delivered to the polling place. If multiple precinct processing will occur at the polling place, the device shall be located so that it is equally accessible to the voters and precinct officers of each precinct. Keys to the unit and the ballot box will be included in the precinct supply kits and marked as such.
10. Anti-static envelopes, appropriate containers and seals to facilitate safe and secure transportation of MemoryPacks and election results tapes shall be supplied.
11. Sample ballots of each ballot style as required by the Elections Code.
12. Seals and any other supplies and forms deemed necessary.

## 3.2 Processing Absent Voter Ballots

### 3.2.1 Distribution of Absent Voter Ballots and Sample Ballots to Voters.

Before distribution of absent voter ballots to voters who request them, the ballot style numbers of the ballot and the sample ballot to be mailed shall be compared to ensure a match.

### 3.2.2 Applied Absent Voter List

A list, or an identification on the Roster-Index, of absent voter ballot applicants is to be supplied to each precinct.

3.2.3 Not more than five days prior to an election, begin preparing returned absent voter ballots for counting, as follows:

3.2.3.1 Confirm that the voter's signature on the Identification Envelope has been verified.

3.2.3.2 Sort envelopes according to ballot style.

3.2.3.3 Open each envelope and remove the voted ballot.

3.2.3.4 Place empty Identification Envelopes in a designated storage area.

3.2.3.5 Examine absent voter ballots for cause for rejection and damage; process in the manner prescribed for Ballot Inspection Boards herein.

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3.2.3.6 Deliver ballots to be processed to designated official for secure storage until time for processing.

## 3.3 PROVISIONAL BALLOTS

Provisional voter ballots are in substantially the form of absent voter ballots and are to be used at all elections by voters who claim to be registered but whose right to vote cannot be immediately established.

Provisional voter ballot envelopes shall be printed in substantially the same form as absent voter ballot envelopes, but shall be distinguished by a different color or other means of discrete identification.

Procedures for tallying provisional voter ballots shall be those set forth in Elections Code section 14310 and by the election official.

## 3.4 POLLING PLACE PROCEDURES

If multiple precinct processing within a single polling place is to be implemented, the functions hereinafter described shall be performed by the board workers of each precinct acting jointly insofar as is practical. Where forms are to be completed, the election official shall provide them in such a format and so written as to facilitate notations by each precinct staff. Surrendered and delivered absentee ballots, spoiled ballots and provisional ballots shall be maintained separately by precinct.

3.4.1 Before the polls are open, the precinct workers will perform the following tasks.

1. Complete Oath of Office and Declaration of Intention forms pursuant to Elections Code section 12321.
2. Assemble voting booths and in each booth display a copy of the required materials.
3. Ensure that a pad of demonstration ballots, markers and suitable demonstration materials are available at the point of ballot issue.
4. Before the polls are open, the precinct board shall verify that the serial number on the Eagle is the same number that is listed on the Voting Device Report.

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5. Check that the MemoryPack is secure.
  6. Verify that no ballots remain in any of the ballot box bins from testing or previous elections.
  7. Verify that the ballot slot cover on the auxiliary bin is closed and the bin is locked.
  8. Close and lock all ballot box doors.
  9. Ensure that the Eagle is nested into the ballot box and that the power cord is properly threaded through the rear of the unit.
  10. When the power cord is plugged into a 120V AC outlet and the unit is keyed on, the Eagle powers on and automatically prints a Zero Totals Tape to indicate that no ballots have been cast and that no candidate or measure has any votes. The Zero Tape is the final initialization report that shows all of the offices and all of the candidates in the election for all precinct(s). All vote totals for all candidates and measures must be zero. The public counter will display zero ballots cast. If the Zero Tape does not automatically print when the voting device is plugged in and turned on, a different electrical outlet should be tried, if available. If the Zero Tape still does not print, this must be reported to the election official. Voting may commence, but ballots are to be deposited in the front auxiliary bin until corrective action is taken. Such action must be logged.
  11. Verify that all candidate names and ballot measures displayed on the Zero Results Tape are the same order as they appear on the official ballot. The Zero Totals Tape is signed by two board members; it can be rolled up and placed in a secure place or posted in the polling place for public display. This process is repeated at the closing of the polls. This tape becomes a permanent record of the election as it was conducted at the precinct.
  12. Observe the poll opening time. If the polls opening and closing times were entered in the election coding process, an attempt to open polls before the official opening time will cause the printing of an appropriate diagnostic message.
- 3.4.2 While the polls are open, the precinct workers will perform the following tasks, and the following activities will occur:

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1. During the day, at least every hour, inspect each booth to ensure that there are no electioneering materials present and that the booth is otherwise suitable for voting ballots. As far as possible, defacement conditions shall be corrected.
2. Offer to instruct each voter in the proper method of voting by darkening the oval, casting write-in votes and using the secrecy sleeve. Offer each voter further instruction and practice time, if necessary.
3. Instructions in inserting voted ballots into the Eagle, if necessary, shall be given at the time of stub removal.
4. A write-in space is provided for each office on the ballot. The voter must both write in the name of the candidate and completely fill in the voting position oval.
5. The process for surrendering absentee ballots at the polling place must be followed; no person to whom an absent voter ballot was issued is permitted to vote at the polling place unless he or she surrenders the ballot. The ballot is to be marked "SURRENDERED" and placed in the container marked for "ABSENTEE BALLOTS SURRENDERED AT THE POLLING PLACE." The voter is then permitted to vote at the precinct polling place. Any person to whom an absent voter ballot was issued may vote a precinct ballot provisionally without surrendering the original ballot. This is accomplished by providing the precinct board workers with a signed statement, under penalty of perjury, that the voter has not voted and will not vote any other ballot in that election.
6. The process for leaving voted absentee ballot at the polling place is as follows. If a voter returns a voted absentee ballot, the precinct workers verify that the ballot is sealed and that the signature of the voter is on the Return Identification Envelope. They will additionally require any person who returns a voted, sealed absentee ballot to sign a log or record before depositing his or her voted and sealed absentee ballot in the specially marked container.
7. Do not store surrendered absentee ballots; returned, voted and sealed absentee ballots; spoiled ballots; or voted provisional ballots in the auxiliary or emergency voting bin of the Eagle. Rather, these ballots should be stored in their appropriately designated containers unless the jurisdiction has adopted procedure to ensure a secure process for storage of these types of ballots.
8. The voter, upon leaving the voting booth, shall place his/her voted ballot in the secrecy sleeve with stub exposed and proceed to the Eagle. There, a precinct officer shall remove the stub and hand it to the voter. The voter shall retain possession of the ballot and be directed to the Eagle where he or she shall put the ballot into the throat of the device. The secrecy sleeve may continue to be employed during this process to hide the voted portion from view, but care

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should be taken not to attempt to introduce the sleeve into the throat of the Eagle. The voter shall return the empty secrecy sleeve as well as the uncapped marking instrument to a designated precinct official who may make it available for re-use. The provisions of this paragraph shall be considered mandatory when ballots are printed on both sides and optional when ballots are printed on one side. In the latter situation, secrecy can be assured by advising voters to carry voted ballots face down after voting. Ballots may be processed through the Eagle face down.

9. A precinct official shall be available near the Eagle for assistance. This official may be on the board of either precinct if multiple precincts are being processed in a single polling place. The same official need not perform these duties throughout the day; and these duties may be rotated among the multiple precincts.
10. If a precinct worker assists a voter, at the voter's request, in how to insert his or her ballot into the Eagle, an Assisted Voter affidavit need not be completed, unless the assistance requires the viewing of the voting portions of the ballot.
11. Read and inform the voter of the text of messages displayed by LCD, if necessary.
12. The precinct workers will inform the voter of what corrective action, if any, may or must be taken should a ballot error or ballot anomaly condition be encountered. When assisting the voter as described above, the precinct officer shall position himself or herself so that the voted portion of the ballot shall not be in that officer's view.
13. If for any reason the Eagle becomes inoperative, voting shall continue. From the time the device becomes inoperative, until it is repaired, tested and again made available for ballot tabulation, voted ballots shall be placed in the forward emergency or auxiliary bin which shall be opened for that purpose. If such an event occurs, the election official shall follow the California Elections Code for processing. If, and when, the Eagle is restored to operation, ballots which have been stored temporarily in the Emergency or Auxiliary Bin shall be entered into the Eagle by a Precinct Board member, witnessed by a second Board member, and must be fully noted in the delay event log. This process shall not hinder nor delay voting, and shall be performed during inactive voting periods, or after the last voter has voted and before the "Print Totals" key is pressed. During this process, if a damaged ballot is encountered, it shall be placed in an envelope or container appropriately labeled. Such ballots shall be held for duplication by the election official for inclusion in the Official Canvass and be subjected to the 1%

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recount as deemed appropriate by the election official in accordance with the California Elections Code.

3.4.3 Closing The Polls - The following procedures and activities must be conducted in public view.

1. Promptly at 8 p.m., declare, "The polls are closed." Any voter in line at the closing must be allowed to vote, but no one who arrives after 8 p.m. may vote.
2. All unused official ballots are boxed, noted and sealed into a container meant for this purpose.
3. Place all surrendered Absentee Ballots in the container provided for that purpose. Place any voted Provisional Ballots in the container provided for that purpose. Set the containers aside for return with the rest of the election supplies.
4. Open the Eagle printer compartment and unroll the Zero Results Tape if saved within the unit. Respond to the "PRINT TOTALS" message by depressing the "YES" button on the face of the Eagle. Respond to the confirmation message with another depression of the "YES" button. The Precinct Results Tape will now begin to print. The Precinct Results Tape prints ballot statistics and a listing of each office and measure, within which are the tabulated counts of votes for each candidate and each measure (for/against). Said copy of the tape may be posted in a location chosen by the election official.

***AT THIS POINT, A BALLOT ACCOUNTING OPTION IS AVAILABLE.***

5. Ballot accounting for the unofficial canvass may be by reference to statistics printed on the Precinct Results Tape. In such case, a physical counting of ballots in certain randomly selected ballot boxes may be performed as an audit trail CHECKPOINT. This physical counting of ballots will be accomplished during the preparation of the official canvass.
6. Ballot counts for each precinct and, in an "Open Primary" Election, ballot counts for those ballots containing a partisan office, shall be copied from the Precinct Results Tape onto the Ballot Accounting Statement. Total ballots cast are also available from the public counter.
7. If the election official directs that the procedures described in paragraphs 5 and 6, above, be followed, it will not be necessary to physically count the ballots. Ballots containing write-in votes will have been separated into the left bin and

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there will be no need to go through all the ballots searching for write-ins as they will, at the choice of the county, be processed at election central.

8. Two precinct workers will sign the certification message at the end of the Precinct Results Tape. The continuous Precinct Results Tape and the Zero Results Tape shall be torn off at this point, and placed in a container designated for this purpose. A second log/results tape shall be printed by again pressing the Print Totals “YES” key. This second tape shall be torn off and included in the envelope used to mail the Certificate of Packaging and Sealing to the election official.
  
9. Turn off and unplug the Eagle, and break the seal on the MemoryPack compartment, place the MemoryPack in the container provided for that purpose or, by choice of the county, place the unit into a secure bag without removing the memory card, thus leaving the seal intact for removal at election central.
  
10. Remove the MemoryPack, and with one copy of the continuous Zero and Precinct Totals Tape, place it in the anti-static bag. This anti-static bag will be delivered to either a collection point or to the central processing facility.
  
11. Remove the unit from the ballot box, place the unit into the equipment transfer bag with the seal remaining intact, and delivery the unit with other election material to election central for processing.
  
12. After unlocking the ballot box compartment doors, remove the voted ballots from the ballot box, taking care to place those left bin ballots which contain write-in votes, if the diverter is used, on top of the normal right bin voted ballots. Note that if multiple precinct processing in a single polling place occurs, the voted ballots must be separated into unique precinct groupings
  
13. Ensure that all ballot box compartments are empty.
  
14. Complete the Ballot Statement indicating: the total number of official ballots received from the election official; the number of spoiled ballots; the number of unused ballots; the number of provisional ballots; and the number of ballots cast at the precinct. The sum of the spoiled ballots, unused ballots, provisional ballots, and ballots cast at the precinct should equal the number of official

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ballots received from the election official. Explain any discrepancy in writing on the ballot statement itself.

15. Reconcile the number of ballots voted in the precinct to the number of signatures in the Roster-Index. Again, explain any discrepancy in writing on the ballot statement.
16. Complete the "Certificate to Roster" showing: the name(s) of person(s) who, after signing the Roster, failed to vote because of challenge, or other reason; plus the number of people who voted in the precinct; and complete the certification attesting to the accuracy of the Ballot Statement. The Ballot Statement must contain the signatures of all the polling place workers.
17. A designated polling place worker will enter the number of Absentee Ballots Surrendered at the Polling Place in the appropriate space on the Certificate of Packaging and Sealing. Then enter the number of provisional ballots in the appropriate space on the Certificate of Packaging and Sealing.
18. Place all unused, non-voted ballots in a container designated for this purpose and seal the container. It will be returned with the election supplies.
19. Place all voted ballots in a container designated for this purpose and seal the container. Enter the total in the proper box on the Certificate(s) of Packaging and Sealing and elsewhere as directed. This total should agree with the number of ballots cast at the precinct reported on the Ballot Statement.
20. Count the number of special, non-Eagle ballots, if any, that were left at the polling place. These ballots were cast in accordance with Elections Code Sections 13317 and 13265. Seal and return these ballots as directed by the election official.
21. The following methodology will be used in packaging various election supply items for return to the election official. All ballots cast, unused ballots, surrendered absentee ballots and provisional ballots will be sealed in their designated respective containers. The Roster-Index, Precinct Index and Purged Voter Index will be sealed in accordance with the directions of the election official. All other supplies will be packed or sealed as directed.
22. Dismantle the voting booths.
23. Review the Certificate of Packaging and Sealing one last time. Verify that the numbers of ballots cast, absentee ballots, and provisional ballots have been

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correctly entered on the Certificate of Packaging and Sealing. Verify that the required materials have been placed into the appropriate container or containers, listing the materials inserted in each container and indicating that the container or containers were appropriately sealed. After all entries have been completed, each member of the board shall sign the Certificate. After the poll closing procedure is completed, the original Certificate shall be mailed to the election official by a member of the precinct board other than the members who return the election supplies. A self-addressed stamped envelope shall have been provided for this specific purpose. The copy shall accompany the ballot container to the election supply collection point. At least two precinct board members must accompany all ballots and election supplies until they are in the custody of the election official and a properly issued receipt for these items has been provided.

24. MemoryPacks and Units will be returned in accordance with direction of the election official.

DO NOT RELEASE BALLOTS OR ELECTION SUPPLIES TO THE CUSTODY OF ANY OTHER PERSON WITHOUT FIRST OBTAINING A RECEIPT.

## 3.5 SEMI OFFICIAL CANVASS or UNOFFICIAL ELECTIONS RESULTS PROCEDURES

This section presents procedures for processing ballots through Eagles “centrally” on election night as opposed to such processing occurring at the polling place throughout the day. Normally such processing will be done at a County Courthouse, County Administration Facility, City Hall or other such single facility. Nothing herein shall preclude however, the election night processing of ballots at other locations (and they may be several) such as polling places, remote public facilities etc. When so done, the procedures presented here for “central processing” shall apply as far as is practical. At a minimum, all procedures for the transportation of ballots and MemoryPacks, and all procedures for testing, sealing, logging, maintenance of the audit trail and subsequent transportation of ballots, MemoryPacks and election materials shall apply.

### 3.5.1 Report Preliminary Absent Voter Tally Results

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Preliminary absentee ballot tallies, compiled pursuant to Elections Code section 15000, will be reported to the Secretary of State immediately following the close of the polls. This requirement shall apply to all elections for which election results are reported to the Secretary of State. These results will be compiled from the central processing of absentee ballots on specialized high speed, optical scanners designed for this purpose. This equipment and its attendant procedures are not a subject for this document; please reference California approved procedures for model 550 and 650 central ballot tabulation systems.

### **3.5.2 Appointment of Boards**

The election official responsible for the conduct of an election shall appoint boards to carry out the following semi-official canvass functions:

1. Absent Voter and Provisional Voter Ballot Processing
2. Logic and Accuracy Testing
3. Seal and Container Inspection
4. Ballot Inspection
5. Ballot Processing
6. Ballot Duplication
7. Write-In Ballot Processing
8. Ballot Storage
9. MemoryPack Control
10. Elections Observer Panel
11. Other boards deemed necessary by the responsible election official.

Individuals appointed may perform more than one function or serve on more than one board. The semi-official canvass functions listed above must be performed by a minimum of two persons. Each board member shall be appointed to perform the function designated. Each person who handles ballots at the central or remote counting location shall sign the following declaration:

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“To the best of my knowledge and belief, I did not tamper with any ballot, MemoryPack, or ballot counting equipment, nor did I observe any other person in any way tamper or interfere with the ballot counting process. And to the best of my knowledge the said process was done in accordance with both state and federal law and in compliance with the California Elections Code.”

### **3.5.3 Establish Election Audit Trail CHECKPOINTS**

The responsible election official shall establish procedures to account for all voted ballots during the semi-official canvass. These procedures shall record the time voted ballots and MemoryPacks and units were received from each precinct and shall indicate from whom they were received and to whom they were submitted. In addition, each function listed under Section 3.4.2 (above) is designated as an Audit Trail CHECKPOINT, and the responsible election official must document the receipt and processing of voted ballots and MemoryPacks by the various boards assigned to perform these functions.

### **3.5.4 Absentee and Provisional Ballot Processing**

All surrendered and/or returned voted absentee ballots and provisional ballots will be processed in compliance with approved administrative or Elections Code procedures. Prior to any processing, the appropriate board must ensure that all absentee and provisional ballots received from the precinct(s) were properly sealed in their respective containers. The inspection and documenting of this reception process is an Election Audit Trail CHECKPOINT. Any defects or discrepancies noted during this process should immediately be brought to the attention of the election official. All provisional ballots will be verified closely to ensure that votes are only processed for eligible races.

Absent voter and provisional voter ballots received on election night shall be:

- Processed in accordance with these Procedures and the Elections Code; or
- Maintained in a secure location accessible only to designated persons under controlled conditions before being processed pursuant to Sections 4.1 through 4.3.

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- Functions of Boards:
- Seal and Container Inspection (TRACKING POINT).
- Examine each sealed voted ballot container, paying particular attention to the condition of the container and seal.
- Note and initial on a control document the precinct number of ballot containers with broken or improperly secured seals.
- Refer any defects to the appropriate board or to the election official as directed.
- Forward properly sealed ballot containers for ballot inspection.
- Ballot Inspection (TRACKING POINT).
- Receive, break the seal, and open the inspected containers.
- Remove the voted ballots.
- Maintain a control of for the ballots of each precinct. This control log shall indicate the number of voted ballots reported by the precinct officials.
- Remove any portion of the stub, such as an incompletely detached perforation, that remains attached to a ballot.

### **3.5.5 Ballot Duplication**

Damaged ballots shall be processed according to the following procedure:

(Damaged ballots may be duplicated before processing or after rejection by Eagles, or both.)

Deliver damaged voted ballots to the appropriate location for processing. All ballots prepared as duplicates of damaged voted ballots shall be of a distinctive color, or be identifiable by other distinguishing means, clearly labeled “duplicate,” and shall be given a serial number which shall also be recorded on the damaged ballot.

In creating the duplicate ballot, one board member shall duplicate voting positions marked on the damaged ballot, and shall enter a facsimile of the write-in vote(s), if any. Efforts need not, and should not, be made to match the handwriting characteristics of the voter when entering these write-in facsimiles. Particular attention must be paid to completing or not completing the arrows opposite the write-in spaces as the voter did, or failed to do. Another member shall verify that

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the voting position marks and write-in entries (including arrow completions or lack thereof) on the duplicate ballot match those in the damaged ballot.

Duplicates of damaged ballots shall be placed with voted ballots of the appropriate precinct for further processing, tallying, and storage. The original ballot which has been duplicated shall be distinctively voided, placed in clearly identified containers for damaged ballots, and segregated in a secure location so they cannot be counted inadvertently.

When ballots are processed centrally, the Ballot Processing Board may forward “blank” ballots for processing. Such ballots will carry voting position marks that cannot be read by the Eagle usually because reflectivity of these marks is not within specifications. They are to be duplicated, following the same procedures for damaged ballots.

### **3.5.6 Write-in Vote Processing**

Ballots having write-in votes will be identified automatically under program control as they are processed through Eagles. Write-in votes processing shall be performed after ballots are processed through the Eagle.

If ballots containing write-in votes are found in the Eagle bin (usually the center bin), the Ballot Processing Board, or a separate Write-In Processing Board, shall prepare the ballots for manual tally, as follows:

3.5.5.4.1 Check the ballot for the precinct to determine the number of candidates to be elected to the office for which there was a write-in.

3.5.5.4.2 Examine the voting positions on the ballot for the office where the write-in vote occurs. If any of the voting positions for that office are marked and the number of voting position marks plus the number of write-in votes (with voting position arrows filled in opposite the write-in) exceeds the number of candidates to be elected, an overvote exists and none of the votes for the office may be counted.

3.5.5.4.3 If an overvote is found, invalidate all votes for the overvoted office by writing “VOID” across the write-in name(s).

3.5.5.4.4 Refer to the list of qualified write-in candidates provided by the election official:

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- If the name written in is not on the list, write “VOID” across the name and place the write-in ballot in the designated container.
- If the name is on the list but the write-in is not made in the space(s) provided for the office for which the candidate is qualified, write “VOID” across the name and place the ballot in the designated container.
- If the write-in vote is for a qualified candidate in the precinct, place the write-in ballot in the container designated for valid write-in votes, if such votes are to be tallied by a separate board. If the board examining the ballots with write-ins is assigned to tally them, they shall do so, using the result sheets and other control documents provided.

### **3.5.7 Ballot Processing Board – Ballots processing through Eagles shall:**

- Be done in the presence of at least two people, one of whom will be the system operator who is responsible for managing and monitoring system operation and reporting. Changes in system operators shall be logged, with time of change indicated. For this purpose, the log/results tape may be used as a log for manual entries.
- Utilize one operator assigned to each Eagle. If an Eagle is idle, the operator can be assigned to another. The movement of operators shall be tracked and logged.

All Eagle operators shall be supervised.

- Maintain an audit trail that links operators and ballots to specific Eagles.
- Maintain a record or log of the sequence in which precincts were processed along with a recording of system irregularities in processing.
- Separate ballots that cannot be read by Eagles. These ballots must be identifiable to the precinct from which they are separated and delivered to the proper board for resolution. This includes such items as damaged ballots or ballots in the incorrect precinct.
- Maintain ballots together by precinct for delivery to the Storage Board.

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## 3.6 Summary System Processing

Following the processing of the last ballot from a precinct (or absentee ballot style), the Eagle operator shall:

- Press the “PRINT TOTALS” key on the keypad.
- Observe that the Totals Report prints. (See 4.x.x.x)
- If a certification message has been called for, execute same.
- Remove power from (unplug) the Eagle.
- Tear off the Log/Results tape and deliver it as instructed by the election official.
- Remove the MemoryPack from the MemoryPack housing
- Deliver the MemoryPack to the Summary System operator(s).

3.7.5.6.2 Upon receipt of the MemoryPack from the Eagle operator, the Summary System operator shall:

- Make entry of this receipt on a log designed for the purpose.
- Cause the MemoryPack data to be read into the Summary System.
- Upon completion of reading, deliver the MemoryPack to the MemoryPack Control Board
- Produce election results bulletins as required.

The Election official shall report election results, as specified, to the Secretary of State for statewide elections and specified special elections.

If such peripheral devices are available, the Summary System operator may use floppy disks or magnetic tape to create backup files throughout the Summary System process.

A Ballot Storage Board shall:

Receive directly from the Ballot Processing Board all ballots for each precinct.

Secure all voted ballots until the final logic and accuracy tests are run following the semi-official canvass.

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Following the final logic and accuracy test for the semi-official canvass and during the official canvass, all voted ballots must be maintained in a locked and sealed room or containers any time the ballots are unattended.

Any authorized entry into ballot containers must be accompanied by a record or log noting time, place, persons involved, and reasons for breaking the seal.

A MemoryPack Control Board shall:

Receive from the election official all MemoryPacks to be used in the election, except for those which the election official may have set aside for delivery to Precinct Boards and Absentee Processing Boards. A list of such MemoryPacks (received and not received) shall be delivered to the MemoryPack Control Board for logging and control.

If the processing of Absentee ballots is to be done by the Absentee Board at times during election day as permitted by the Elections Code, the MemoryPack Control Board may receive Absentee Ballot Style MemoryPacks from the Absentee Board as directed by the election official. This shall be logged.

Upon request by the Ballot Processing Board, deliver to them the MemoryPack for a specified precinct or absentee ballot style (if absentee ballots are to be processed by that Board). This procedure shall be logged. At a minimum this log shall carry a precinct ID entry made by a runner or Ballot Processing Board member, with a corresponding entry on the same line showing an indication by initials of a MemoryPack Board member that the MemoryPack issued was the MemoryPack requested. There shall be an indication whether the requested MemoryPack is to be used for Eagle AND Summary System processing, or for Summary System processing only.

Receive from the Ballot Processing Board those MemoryPacks which have been processed through the Summary System.

Issue to, and thereafter receive from, the Logic and Accuracy Board, the MemoryPacks requested for the performance of Logic and Accuracy tests.

**SUMMARY - MemoryPack Control Board:**

It is the duty of the MemoryPack Control Board to exercise strict supervision of the identification, receipt, issue, movement and storage of MemoryPacks. All such activity is to be logged or otherwise documented. Segregated groupings are to be maintained for each of the following types of MemoryPacks:

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Those which have been received from precincts where Eagles were installed.

(Processed through Eagles; yet to be processed through the Summary System).

Those which have been received from Absentee Boards.

(Processed through Eagles; yet to be processed through the Summary System).

Those which are to be delivered for processing through Eagles and the Summary System.

Those which have been returned from Eagles/Summary System processing.

Those which are to be issued for Accuracy Tests.

Those which have been returned after Accuracy Test use.

MemoryPacks are media used for the transfer of election results from Eagles to Summary Systems. Inasmuch as ballots themselves are sufficient for the long term retention of election data, and inasmuch as Log/Results tapes are available for comparison against Summary System reports, and inasmuch as MemoryPacks may be needed for elections which may occur prior to the expiration of a mandated period for retention of election materials, the requirements of Election Code sections 17300 through 17306 shall be deemed not to apply to MemoryPacks.

Following certification of election results and the period for recount requests, the ballots may be moved to storage for the ballot retention requirements of the election, provided the ballot containers remain sealed.

The election official shall not open any ballot containers nor permit any ballot containers to be opened except as permitted in Elections Code sections 14305 and 14306, or in the event of a recount.

For purposes of this section, all seals shall be destructible seals as defined in Section 1.2.11.

Certification by Unescorted Personnel. All unescorted persons present within the security area, including visitors, media representatives, and standby personnel, shall be clearly identified by a badge or other means and a log of their arrival and departure times. All unescorted personnel shall be subject to restrictions

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established by the responsible election official to ensure the efficiency and integrity of the vote tallying process.

### **3.5.6 Post Official Canvass Period Disposition of Election Materials**

Following certification of the election results and upon expiration of the period for recount requests, the ballots may be moved to secure storage for the required ballot retention period, during which time the ballot containers remain sealed. The election official shall not open any ballot containers or permit any ballot containers to be opened except as permitted in Elections Code sections 15305 and 15306, or in the event of a mandated recount. Seals used for the foregoing purposes shall be numbered, destructible seals.

### **3.5.7 Certification by Unescorted Personnel.**

All unescorted persons present within the security area, including visitors, media representatives, and stand-by personnel, shall be clearly identified by a badge or other means and a log of their arrival and departure times shall be maintained. All unescorted personnel shall be subject to restrictions established by the responsible election official to ensure the efficiency and integrity of the vote tallying process.

# 4.0 ELECTION PROCEDURES - PROCESSING BY EAGLES AT POLLING PLACES; SUMMARY COUNT CENTRALLY

(Many of the procedures presented in this Chapter 4 can be supported by illustrations when presented as instruction to Election Boards. Such practice is encouraged.)

## 4.1 Inspection and Delivery of Precinct Supplies.

Instruct The Precinct Board to make the following checks prior to election day:

4.1.1 Check all pads of ballots to ensure that ballot style identification numbers, serial numbers, and precinct numbers (if used) printed on the ballots are correct.

4.1.2 Report any problems to the election official responsible for the election.

4.1.3 Supplies necessary for the conduct of elections at polling places shall be delivered as follows:

4.1.3.1 Ballots shall be in the quantity and manner required by Elections Code sections ~~14002 through 14004~~ 14102 through 14104, as well as demonstrator ballots marked for demonstration use only.

4.1.3.2 In primary elections, ballots shall be appropriately tinted for each political party and for nonpartisan voters, as directed by the Secretary of State.

4.1.3.3 Demonstration Placards

4.1.3.4 General purpose precinct supplies as provided in Elections Code sections 14105 through 14110.

4.1.3.5 Secrecy sleeves or envelopes, if ballots are printed on two sides.

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4.1.4.6 Ballot Marking devices.

4.1.4.7 A Certificate of Packaging and Sealing, in duplicate, together with a self-addressed stamped business reply envelope, addressed to the responsible election official.

4.1.4.8 Two sample ballots of each ballot style and in each language required to be voted on in the precinct.

4.1.4.9 Seals and any other supplies and forms deemed necessary.

4.1.5 The election official shall check that the following will be delivered:

4.1.5.1. An Eagle device with the correct MemoryPack installed. This can be verified by inspecting labels on the exterior of the MemoryPack compartment and on the exterior of the Eagle cover. If Dual Precinct Processing is to be implemented, the Eagle device shall be located so that it is equally accessible to voters and precinct officers of each precinct.

4.1.5.2 An Eagle ballot box. This is a ballot box compatible with the Eagle. It has three compartments or bins with slots. During operation, the Eagle is placed on top of this ballot box, and processed ballots emerging from the Eagle are fed into the slots over the rear and center bins.

4.1.5.3 Three keys, appropriately labeled. One key will open the rear door of the Eagle. Another key will open the top hinged cover, and the third key will open the doors to ballot box bins.

4.1.5.4 Anti-static envelopes, appropriate containers and seals to facilitate safe and secure transportation of MemoryPacks.

## 4.2 PROCESSING ABSENT VOTER BALLOTS:

4.2.1 Distribution of Absent Voter Ballots and Sample Ballots to Voters.

Before distribution of absent voter ballots to voters who request them, the ballot style numbers of the ballot and the sample ballot to be mailed shall be compared to ensure a match.

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#### 4.2.2 Applied Absent Voter List

A list, or an identification on the Roster-Index, of absent voter ballot applicants is to be supplied to each precinct.

4.2.3 Not more than five days prior to an election, begin preparing returned absent voter ballots for counting, as follows:

4.2.3.1 Confirm that the voter's signature on the Identification Envelope has been verified.

4.2.3.2 Sort envelopes according to ballot style.

4.2.3.3 Open each envelope and remove the voted ballot.

4.2.3.4 Place empty Identification Envelopes in a designated storage area.

4.2.3.5 Examine absent voter ballots for cause for rejection and damage; process in the manner prescribed for Ballot Inspection Boards in Section X.X.X.

4.2.3.6 Deliver ballots to be processed to designated official for secure storage until time for processing.

## 4.3 PROVISIONAL VOTER BALLOTS

Provisional voter ballots are in substantially the form of absent voter ballots and are to be used at all elections by voters who claim to be registered but whose right to vote cannot be immediately established.

Provisional voter ballot envelopes shall be printed in substantially the same form as absent voter ballot envelopes, but shall be distinguished by a different color or other means of discrete identification.

Procedures for tallying provisional voter ballots shall be those set forth in Elections Code section ~~4253~~ 14310 and by the election official.

## 4.4 POLLING PLACE PROCEDURES

If Dual Precinct Processing is to be implemented, the functions hereafter described (Sections 4.4 and 4.5) shall be performed by the Precinct Board of each precinct

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acting jointly insofar as is practical. Where forms are to be completed, the election official shall provide them in such a format and so written as to facilitate notations by each precinct staff. Surrendered and delivered absentee ballots, spoiled ballots and provisional ballots shall be kept segregated by precinct.

#### 4.4.1 Before the Polls Open:

4.4.1.1 Complete Oath of Office and Declaration of Intention forms pursuant to Elections Code section ~~1637~~ 12321.

4.4.1.2 Assemble voting booths and in each booth display a copy of materials required by the Elections Code.

4.4.1.4 Make a pad of demonstration ballots, markers and suitable demonstration materials available.

#### 4.4.2 Before the polls are open, the Precinct board shall:

4.4.2.1 Upon receipt of the Optech III-P Eagle, verify that the serial number on the Optech III-P is the same number that is listed on the Voting Device Report.

4.4.2.2 Check the number on the seal that locks the MemoryPack door in place. This is the same number that is listed on Voting Device Report. Report any irregularity election official. Voting may commence, but ballots are to be deposited in the front auxiliary bin until corrective action, if any, is taken or directed by the election official. Such activity must be noted.

#### 4.4.2.3 Ballot Box Set Up.

4.4.2.3.1 Verify that no ballots remain in any of the ballot box bins from testing or previous elections.

4.4.2.3.2 Verify that the ballot slot cover on the auxiliary bin is closed and the bin is locked.

4.4.2.3.3 Unlock the ballot slot tab on top of the ballot box and slide the ballot slot tab back, opening the center and rear ballot bins slots.

4.4.2.3.4 Close and lock all ballot box doors.

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4.4.2.3.5 Lift the Eagle and place it on top of the ballot box so that the Eagle's case is aligned with the sides of the ballot box and ballot entry slot on the Eagle faces the same direction as the front of the box.

4.4.2.3.6 Push the Eagle back against the ballot slot tab. Lower the front of the Eagle down onto the two 1" alignment pins on the front corners of the ballot box. Maneuver the Eagle slightly to firmly secure it on the ballot box.

4.4.2.4 Generating the beginning of the log/results tape.

When the power cord is plugged into a 120V AC outlet, the Eagle automatically powers on and prints three reports. These printouts are the Ballot Statistics report, Acceptable Security ID Code report, and the Zero Tape report. These three reports are left attached as the header tape for the election.

Check the Eagle front panel. Both LED lamps must be illuminated. The red LED indicates that the power is on. The green LED indicates that Eagle is ready to accept ballots. The Public Counter display **MUST** be set at 0000.

4.4.2.4.1 Ballot Statistics

The Ballot Statistics report prints at the beginning of the tape. The report shows the total number of ballots counted, and the total number of ballots not counted. The total ballots matches the number on the public counter display. All totals must be zero.

4.4.2.4.2 Acceptable Security ID Code.

The Acceptable Security ID Code report prints as part of the zero tape report and provides an official record of the ballot identification codes that will be accepted during the election. The report shows a representation of all of the ballot header codes which can be run in the precinct. Ballot ID header codes are found at the upper left and right corners of the front of the ballot. If a ballot with a non-matching header code is read, the diagnostic message, "SECURITY ID DOES NOT MATCH" is printed, and the ballot is returned to the voter. The Acceptable Security ID Code entries are defined during the election coding process. If more entries have been defined for the group than will fit across the tape, an additional section will print on the tape.

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The format of this report is relatively complex. Thus, precinct officers are not required to make an examination nor verification against ballots. It must be printed and saved nonetheless, in order to serve as a TRACKING POINT in the audit trail.

#### 4.4.2.4.3 Zero Tape.

The Zero Tape is the final initialization report that shows all of the offices and all of the candidates in the election for the precinct(s). All vote totals for all candidates must be zero.

If the Zero Tape does not automatically print when the voting device is plugged in, a different electrical outlet should be tried if available. If the Zero Tape still does not print, this must be reported to Election official. Voting may commence, but ballots are to be deposited in the front auxiliary bin until corrective action is taken. Such action must be logged.

4.4.2.4.4 Verify that all candidate names and propositions displayed on the Log/Results tape are the same order as they appear on the official ballot.

4.4.2.4.5 Verify that all candidate names and propositions have a zero total.

4.4.2.4.6 Observe the poll opening time. If the polls opening and closing times were entered in the election coding process, an attempt to open polls before the official opening time will cause the printing of an appropriate diagnostic message.

#### 4.4.3 While the Polls are Open:

4.4.3.1 During the day, at least every hour, inspect each booth to ensure that there are no electioneering materials present and that the booth is otherwise suitable for voting ballots. As far as possible, defacement conditions shall be corrected.

4.4.3.2 Offer to instruct each voter in the proper method of voting by completing the arrow graphic, casting write-in votes and using the secrecy sleeve. Offer each voter further instruction and practice time, if necessary.

4.4.3.3 Instructions in inserting voted ballots into the Eagle shall be given at the time of stub removal if necessary.

4.4.3.4 Write-in space is provided on the ballot. The voter must both write the name of the candidate and complete the voting position arrow.

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#### 4.4.3.5 Surrender of Absent Voter Ballot

No person to whom an absent voter ballot was issued is permitted to vote at the polling place unless he/she surrenders the ballot. The ballot is to be marked “SURRENDERED” and placed in the container marked for spoiled and unused ballots. The voter is then permitted to vote in the normal method for the precinct.

Any person to whom an absent voter ballot was issued may vote a precinct voter ballot provisionally without surrendering the original ballot by providing precinct officials with a statement, signed under penalty of perjury, that the voter has not voted and will not vote any other ballot in that election.

##### 4.4.3.5.1 Voted Ballot Sealed

If a voter returns a voted absent voter ballot, verify that the ballot is sealed and that the signature of the voter is on the identification envelope. Require any person who returns an absent voter ballot in person, either to a polling place or to the elections office, to sign a log or record before depositing his or her voted and sealed ballot in the specially marked container.

4.4.3.5.2 The Front Auxiliary Bin of the Eagle may be used as a ballot box, if none has been provided, for the temporary storage throughout election day of:

Delivered, voted Absentee Ballots

Surrendered Absentee Ballots

Voted Provisional Ballots

Voted Ballots with mismatching Header Codes

Ballots voted during Power Outage

4.4.3.6 The voter upon leaving the voting booth shall place his/her voted ballot in the secrecy sleeve with stub exposed and proceed to the Eagle location. There a precinct officer shall remove the stub and hand it to the voter. The voter shall retain possession of the ballot and be directed to the Eagle where he/she shall put the ballot into the throat of the Eagle device. The secrecy sleeve may continue to be employed during this process to hide the voted portion from view, but care should be taken not to attempt to introduce the sleeve into the Eagle. The voter shall return

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the empty secrecy sleeve to a designated precinct official who may make it available for re-issue. The provisions of this paragraph shall be considered mandatory when ballots are printed on both sides and optional when ballots are printed on one side. In the latter situation secrecy can be assured by advising voters to carry voted ballots face down after voting. They may be inserted into the Eagle face down.

4.4.3.7 A precinct official shall be available near the Eagle device for assisting actions. This official may be on the board of either precinct if Dual Precinct Processing is implemented. The same official need not perform these duties throughout the day; and these duties may be rotated between the two precincts.

4.4.3.7.1 Assist voter if requested in how to insert his/her ballot. An Assisted Voter affidavit need not be completed unless the assistance requires the viewing of the voting positions on the voter's ballot.

4.4.3 7.2 Read and inform the voter of the text of messages displayed by the log/results tape, if any.

4.4.3.7.3 Inform the voter of what corrective action, if any, may or must be taken, or inform the voter of what options, if any, may or must be chosen. (See Table 2. "Ballot Path and Striping Regulations")

When assisting the voter as described above, the precinct officer shall position him/herself so that the voted portion of the ballot shall not be in that officer's view.

4.4.3.8 During the time when Polls are open, the Log/Results tape shall not be removed, nor shall any portion of it be torn off.

4.4.3.9 If for any reason the Eagle becomes inoperative, voting shall continue. From the time the device becomes inoperative, until it is repaired, tested and again made available for processing, voted ballots shall be placed in the forward or auxiliary bin which shall be opened for that purpose. If and when the Eagle is restored to operation, ballots which have been stored temporarily in the Front Auxiliary Bin shall be entered into the Eagle by a Precinct Board member, witnessed by a second Board member. This process shall not hinder nor delay voting, and shall be performed during inactive voting periods, or after the last voter has voted and before the "Print Totals" key is pressed on the keypad. During this process, if a damaged ballot is encountered, it shall be placed in an envelope or

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container appropriately labeled. Such ballots shall be held by the Election official for inclusion in the Official Canvass.

## 4.5 CLOSING OF THE POLLS

THE FOLLOWING PROCEDURES MUST BE COMPLETED IN PUBLIC VIEW.

4.5.1 Promptly at 8 p.m. declare, “The polls are closed.”

4.5.1.1 Any voter in line at the closing must be allowed to vote.

4.5.1.2 No one who arrives after 8 p.m. may vote.

4.5.2 Deface and/or seal all unused official ballots, as directed.

4.5.2 Examine the Front Auxiliary Bin:

- Place any delivered voted Absentee Ballots in the container provided for that purpose.
- Place any surrendered Absentee Ballots in the container provided for that purpose.
- Place any voted Provisional Ballots in the container provided for that purpose.
- Process any properly voted precinct ballots through the Eagle, as described in Section 4.4.3.9.

4.5.3 Unlock and open the rear door of the Eagle, making the keypad accessible.

4.5.4 Verify poll closing time before proceeding.

4.5.5 Press the “PRINT TOTALS” key. Respond to the message on the log/results tape requesting confirmation. (Press 0)

4.5.6 Observe that the tape reads, “NO MORE BALLOT READING, (date and time), POLLS ARE NOW CLOSED.”. Observe that the tape continues with ballot statistics, as well as counts of striped and unstriped ballots in both rear and center bins.

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4.5.7 Observe that the tape prints ballot statistics and a listing of each office and measure, within which are tabulated counts of votes for each candidate and each measure (for/against).

**AT THIS POINT, A BALLOT ACCOUNTING OPTION IS AVAILABLE.**

4.5.7.1 Ballot accounting for the unofficial canvass may be by reference to statistics printed on the Log/Results tape. In such case, physical counting of ballots in ballot boxes shall be performed as an audit trail TRACKING POINT either during the unofficial canvass or the official canvass or both.

4.5.7.2 The ballot counts for each precinct - and in a Primary Election, ballot counts for each party, including non-partisan - shall be copied from the Log/Results Tape onto the Ballot statement or other ballot accounting document.

4.5.7.3 If the election official directs that the foregoing sections (4.5.7.1 and 4.5.7.2) be implemented, then it will not be mandatory to observe the provisions of sections 4.5.13, 4.5.14 and 4.5.15. Physical counting of ballots must be done in any case. Such counting however, may be done either on election night or during the official canvass.

4.5.8 If the election official has chosen to print it, observe that a certification message appears. If so, sign or otherwise complete the certification.

4.5.9 The log/results tape shall be torn off at this point. It shall be placed in a container designated for this purpose. A second log/results tape shall be printed by again pressing the "Print Totals" key. This second tape shall be torn off and included in the envelope used to mail the Certificate of Packaging and Sealing to the election official.

4.5.10 Unplug the Eagle.

4.5.11 Break the seal on the MemoryPack compartment, place the seal in the container provided for the purpose. Remove the MemoryPack, place it in the anti-static bag. Place this bagged MemoryPack in the container provided for the purpose.

4.5.12 Store the electrical cord behind the rear door of the Eagle and lock this door. Observe that the hinged top cover is locked.

4.5.13 Lift the Eagle from the top of its ballot box, remove ballots from both Rear and ~~Front~~ Center Bins.

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4.5.14 Keep the ballots from each Bin separate and count them as to type, i.e.:

Rear Bin, Unstriped - (count)

Rear Bin, Striped - (count)

Center Bin, Unstriped - (count)

Center Bin, Striped - (count)

Total, both Bins - (total of above counts)

4.5.14.1 If Dual Precinct Processing has been used, ballots shall be further separated, and counts made, by precinct.

4.5.15 Enter these counts on the Ballot Statement or other document provided for the purpose. Compare these counts against those printed on the Totals Tape. Note and resolve, if possible, any discrepancy. TRACKING POINT.

4.5.16 If a separate ballot box has been provided, or if the Front Auxiliary Bin of the Eagle has been used as a temporary storage ballot box, examine and count the contents:

4.5.16.1 Absent voter ballots, if any.

4.5.16.2 Provisional voter ballots.

4.5.17 Complete the Ballot Statement, showing:

4.5.17.1 Total number of official ballots received from the election official.

4.5.17.2 Number of spoiled ballots.

4.5.17.3 Number of unused ballots.

4.5.17.4 Number of provisional voter ballots.

4.5.17.5 Number of precinct voter ballots.

4.5.17.6 The sum of the numbers of spoiled ballots, unused ballots, provisional voter ballots, and precinct voter ballot should equal the number of official ballots entered as received from the election official in Section 4.5.17.1.

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4.5.17.7 An explanation of any discrepancy shall be made.

4.5.17.8 Reconcile the number of precinct voter voted ballots to the number of signatures in the Roster-Index. Explain any discrepancy.

4.5.18 Complete the “Certificate to Roster” showing:

4.5.18.1 The name(s) of person(s) who, after signing the Roster, fail to vote because of challenge, or other reason.

4.5.18.2 The number of persons who voted in the precinct.

4.5.18.3 A certification to the accuracy of the Ballot Statement.

4.5.18.4 The signatures of all board members.

4.5.19 Procedures for Voted Absentee Ballots

4.5.19.1 If voted absent voter ballots were placed in the ballot box or the Front Auxiliary Eagle Bin, leave Identification Envelopes sealed, enter the number of such ballots in the appropriate space on the Certificate of Packaging and Sealing, and place the ballots in the designated container for return to the election official.

4.5.19.2 Enter the number of provisional voter ballots removed from the ballot box or Eagle bin in the appropriate space on the Certificate of Packaging and Sealing, and place the ballots in the designated container.

4.5.19.3 When all ballots have been examined, place non-voted ballots in a designated container for delivery to the counting center.

4.5.19.4 Make sure of the count of all voted ballots (Ballot Statement). The count includes regularly voted ballots and questioned ballots. It does NOT include absent voter ballots or provisional voter ballots.

4.5.19.5 Enter the total in the proper box on the Certificate(s) of Packaging and Sealing and elsewhere as directed. This total should agree with Item 5 on the Ballot Statement (i.e., the number of precinct voter voted ballots).

4.5.19.6 Place all voted ballots in the appropriate return container. This group must include questioned ballots.

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4.5.19.7 Close the return container and seal with a tamper-proof seal.

4.5.20 Processing Non-Eagle Ballots. Count the number of ballots other than Eagle ballots that might be used in the election in the manner prescribed by Elections Code sections ~~10324.5 and 10338~~ 13317 and 13265. Seal voted ballots as directed.

4.5.21 Packaging for Return.

4.5.21.1 Seal precinct voter ballots, absent voter ballots, and provisional voter ballots in containers(s), as directed.

4.5.21.2 Seal Roster-Index, precinct index and purged voter index as directed.

4.5.21.3 Package or seal all other supplies, as directed.

4.5.22 Dismantle voting booths.

4.5.23 Observe that the rear door and hinged top cover of the Eagle are locked.  
Lock all Bin doors.

4.5.24 Certificate of Packaging and Sealing

Verify that the numbers of precinct voter ballots, absent voter ballots, and provisional voter ballots have been correctly entered on the Certificate of Packaging and Sealing. Verify that the required materials have been placed into the appropriate container or containers, listing the materials inserted in each container and indicating that the container or containers were appropriately sealed. After all entries have been completed, each member of the board shall sign the Certificate. After the polls close, the original Certificate shall be mailed to the election official by a member of the precinct board other than the members who return the ballot container. A self-addressed stamped envelope shall have been provided for this specific purpose. The copy shall accompany the ballot container to the central counting location.

4.5.25 Returning Election Materials:

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4.5.25.1 Return all ballots, MemoryPacks, supplies and other materials as directed by the election official.

4.5.25.2 At least two precinct board members must accompany all ballots until they are in the custody of the election official and a properly-executed receipt has been provided.

**DO NOT RELEASE BALLOTS TO CUSTODY OF ANY OTHER PERSON WITHOUT FIRST OBTAINING A RECEIPT.**

4.6 SEMI OFFICIAL CANVASS PROCEDURES

4.6.1 Report Preliminary Absent Voter Tally Results

Report preliminary absent voter vote tallies, compiled pursuant to Elections Code section ~~1400~~ 15000, to the Secretary of State immediately following the close of the polls. This requirement shall apply to all elections for which election results are reported to the Secretary of State.

4.6.2 Appointment of Boards

The election official responsible for the conduct of an election shall appoint boards to carry out the following semi-official canvass functions:

- Absent Voter and Provisional Voter Ballot Processing
- Logic and Accuracy Testing
- Seal and Container Inspection
- Ballot Inspection
- Ballot Processing

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- Ballot Duplication
- Write-In Ballot Processing
- Ballot Storage
- MemoryPack Control
- Elections Observer Panel
- Other boards deemed necessary by the responsible election official.

Individuals appointed may perform more than one function or serve on more than one board.

The semi-official canvass functions listed above must be performed by a minimum of two persons. Each board member shall be appointed to perform the function designated. Each person who handles ballots at the central or remote counting location shall sign the following declaration:

“To the best of my knowledge and belief, I did not tamper with any ballot, MemoryPack, or ballot counting equipment, nor did I observe any other person in any way tamper or interfere with the ballot counting process.”

#### 4.6.3 Establish Audit Trails

The responsible election official shall establish procedures to account for all voted ballots during the semi-official canvass. These procedures shall record the time voted ballots and MemoryPacks were received from each precinct and shall determine from whom they were received and to whom they were submitted. In addition, each function listed under Section 4.6.2 (above) is designated as a TRACKING POINT, and the responsible election official must track the receipt and processing of voted ballots and MemoryPacks by boards assigned to perform these functions.

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#### 4.6.4 Absent Voter and Provisional Voter Ballot Processing

Absent voter ballots and provisional voter ballots returned to polling places on election day are sealed in envelopes by precinct boards for return to the designated counting location. These envelopes shall be removed from the precinct supply kits on election night. The condition of the seals shall be inspected, and any defects shall be noted and reported as required by the election official.

Absent voter and provisional voter ballots received on election night shall be:

4.6.4.1 Processed in accordance with these procedures and the Elections Code; or

4.6.4.2 Maintained in a secure location accessible only to designated persons under controlled conditions before being processed pursuant to Sections 5.1 through 5.3.

#### 4.6.5 Seal and Container Inspection (TRACKING POINT).

4.6.5.1 Examine each sealed voted ballot container, paying particular attention to the condition of the container and seal.

4.6.5.2 Note and initial on a control document the precinct number of ballot containers with broken or improperly secured seals.

4.6.5.3 Refer any defects to the appropriate board or to the election official as directed.

4.6.5.4 Forward properly sealed ballot containers for ballot inspection.

#### 4.6.6 Ballot Inspection (TRACKING POINT).

4.6.6.1 Receive, break the seal, and open the inspected containers.

4.6.6.2 Remove the voted ballots.

4.6.6.3 Attach a control document to the ballots of each precinct. This control document shall indicate the number of voted ballots reported by the precinct officials and shall accompany the ballots of that precinct as they are delivered for write-in manual tally (if any) and storage.

#### 4.6.7 Ballot Duplication (TRACKING POINT)

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When ballots have been processed by Eagles at the polling place, there will be no need for remaking ballots from such precincts.

#### 4.6.8 Write-in Votes Processing (TRACKING POINT)

If ballots containing write-in votes are found in the Eagle bin (usually the center bin), the Ballot Processing Board, or a separate Write-In Processing Board, shall prepare the ballots for manual tally, as follows:

4.6.8.2 Check the sample ballot for the precinct to determine the number of candidates to be elected to the office for which there was a write-in.

4.6.8.3 Examine the voting positions on the ballot for the office where the write-in vote occurs. If any of the voting positions for that office are marked and the number of voting position marks plus the number of write-in votes (with voting position arrows filled in opposite the write-in) exceeds the number of candidates to be elected, an overvote exists and none of the votes for the office may be counted.

4.6.8.4 If an overvote is found, invalidate all votes for the overvoted office by writing "VOID" across the write-in name(s).

4.6.8.5 Refer to the list of qualified write-in candidates provided by the election official:

- If the name written in is not on the list, write "VOID" across the name and place the write-in ballot in the designated container.

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- If the name is on the list but the write-in is not made in the space(s) provided for the office for which the candidate is qualified, write “VOID” across the name and place the ballot in the designated container.

- If the write-in vote is for a qualified candidate in the precinct, place the write-in ballot in the container designated for valid write-in votes, if such votes are to be tallied by a separate board. If the board examining the ballots with write-ins is assigned to tally them, they shall do so, using the result sheets and other control documents provided.

#### 4.6.9 Ballot Processing Board (MemoryPack Processing)

4.6.9.1 When Eagles are installed in the polling places, the Ballot Processing Board has the function of processing MemoryPacks through the Summary System. (Ballots have already been processed.) Memorypack processing shall be done in the presence of at least two people, one of whom will be the system operator who is responsible for managing and monitoring system operation and reporting.

Changes in system operators shall be logged, including time of change.

4.6.9.2 The Board shall maintain a record or log of the sequence in which precincts were processed along with a recording of system irregularities in processing.

#### 4.6.9.3 SUMMARY SYSTEM PROCESSING

4.6.9.3.1 The Ballot Processing Board shall receive MemoryPacks, properly identified and logged from the MemoryPack Control Board.

4.6.9.3.2 Upon receipt of the MemoryPack the Summary System operator shall:

- Make entry of this receipt on a log designed for the purpose.

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- Cause the MemoryPack data to be read into the Summary System.
- Upon completion of reading, deliver the MemoryPack to the MemoryPack Control Board
- Produce election results bulletins as required.

4.6.9.3.3 If such devices are available, the Summary System operator shall use floppy disks or magnetic tape to back up files created in the Summary System process.

4.6.10 The election official shall report election results, as specified, to the Secretary of State for statewide elections and specified special elections.

4.6.11 A Ballot Storage Board shall:

4.6.11.1 Receive directly from the Ballot Inspection Board all ballots for each precinct.

4.6.11.2 Secure all voted ballots until the final logic and accuracy tests are run following the semi-official canvass.

4.6.11.3 Following the final logic and accuracy test for the semi-official canvass and during the official canvass, all voted ballots must be maintained in a locked and sealed room or containers any time the ballots are unattended.

4.6.11.4 Any authorized entry into ballot containers must be accompanied by a record or log noting time, place, persons involved, and reasons for breaking the seal.

4.6.12 A MemoryPack Control Board shall:

4.6.12.1 Receive from the election official all MemoryPacks to be used in the election, except for those which the election official may have set aside for delivery to Precinct Boards and Absentee Processing Boards. A list of such MemoryPacks (received and not received shall be delivered to the MemoryPack Control Board for logging and control.

4.6.12.2 Following closing of the polls, receive from each precinct where Eagles were installed, the MemoryPack for that precinct. This shall be logged, and a receipt issued.

4.6.12.3 If the processing of Absentee ballots is to be done by the Absentee Board at times during election day as permitted by the Elections Code, the MemoryPack Control Board may receive Absentee Ballot Style MemoryPacks from the Absentee Board as directed by the election official. This shall be logged.

4.6.12.4 Deliver to the Ballot Processing Board the MemoryPack for a specified precinct or absentee ballot style (if absentee ballots are to be processed by that Board). This procedure shall be logged. At a minimum this log shall carry a precinct ID entry made by a runner or Ballot Processing Board member, with a corresponding entry on the same line showing an indication by initials of a MemoryPack Board member that the MemoryPack issued was the MemoryPack requested. There shall be an indication whether the requested MemoryPack is to be used for Eagle AND Summary System processing, or for Summary System processing only. Color coded MemoryPack identifying labels should be used to designate which of these two types of processing is to be employed.

4.6.12.5 Receive from the Ballot Processing Board those MemoryPacks which have been processed through the Summary System.

4.6.12.6 Issue to, and thereafter receive from, the Logic and Accuracy Board, the MemoryPacks requested for the performance of Logic and Accuracy tests.

4.6.12.7 SUMMARY-

It is the duty of the MemoryPack Control Board to exercise strict supervision of the identification, receipt, issue, movement and storage of MemoryPacks. All such activity is to be logged or otherwise documented. Segregated groupings are to be maintained for each of the following types of MemoryPacks:

Those which have been received from precincts where Eagles were installed.

(Processed through Eagles; yet to be processed through the Summary System).

Those which have been received from Absentee Boards.

(Processed through Eagles; yet to be processed through the Summary System).

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Those which are to be delivered for Summary System processing only.

Those which are to be delivered for processing through Eagles and the Summary System.

Those which have been returned from Eagles/Summary System processing.

Those which are to be issued for Accuracy Tests.

Those which have been returned after Accuracy Test use.

MemoryPacks are media used for the transfer of election results from Eagles to Summary Systems. Inasmuch as ballots themselves are sufficient for the long term retention of election data, and inasmuch as Log/Results tapes are available for comparison against Summary System reports, and inasmuch as MemoryPacks may be needed for elections which may occur prior to the expiration of a mandated period for retention of election materials, the requirements of Election Code sections 17301 through 17306 shall be deemed not to apply to MemoryPacks.

4.7 Following certification of election results and the period for recount requests, the ballots may be moved to storage for the ballot retention requirements of the election, provided the ballot containers remain sealed.

4.8 The election official shall not open any ballot containers or permit any ballot containers to be opened except as permitted in Elections Code sections 15305 and 15306, or in the event of a recount.

4.9 For purposes of this section, all seals shall be destructible seals.

4.10 Certification by Unescorted Personnel. All unescorted persons present within the security area, including visitors, media representatives, and standby personnel, shall be clearly identified by a badge or other means and a log of their arrival and departure times. All unescorted personnel shall be subject to restrictions established by the responsible election official to ensure the efficiency and integrity of the vote tallying process.

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# 5 OFFICIAL CANVASS AND POST-ELECTION PROCEDURES

## 5.1 Purpose of the Official Canvass

The Official Canvass consists of a post-election audit of all of the voting precincts' returns and the absent voter ballot returns:

- to validate the outcome of the election by verifying that there were not more ballots cast than the sum of the numbers of voters who signed the precinct Roster/Index and who applied for and were issued absent voter ballots;

- to account for all official ballots produced for the election; to ensure that all required certificates and oaths were properly executed by the precinct board; and,

- to verify the accuracy of the computer count by manually recounting the voted ballots from at least one percent of the voting precincts and comparing the manually-tallied results to the computer-generated results.

Each Official Canvass function must be performed by a minimum of three persons.

## 5.2 Canvassing Precinct Returns

5.2.1 Process provisional voter ballots returned by each precinct.

5.2.1.1 Verify eligibility of persons who cast ballots provisionally.

5.2.1.2 Open envelopes of eligible voters and remove provisional ballots.

5.2.1.2.1 Examine ballots for write-in votes, noting cause for rejection and damage.

5.2.1.2.2 Process in the manner prescribed for Ballot Inspection Boards in Sections 3 and 4.

5.2.1.2.3 Identify original or duplicate provisional ballots by precinct and deliver to the designated official for updating computer tallies.

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5.2.1.3 Write the reason for rejection on envelopes of ineligible voters. Place unopened envelopes with election materials to be retained for the period prescribed by law.

5.2.2 Examine the Ballot Statement prepared by each precinct board.

5.2.2.1 Compare the number of official ballots reported “received” by each precinct to the number issued by the election official. Resolve or explain any discrepancy.

5.2.2.2 Verify that the number of ballots voted (including those voted provisionally), plus spoiled and unused ballots, equals the number received by the precinct. Resolve or explain any discrepancy.

5.2.3 Reconcile tallies

5.2.3.1 Compare the number of signatures in the Roster-Index to the number of precinct voter ballots reported on the Ballot Statement. Resolve or explain any difference between the two.

5.2.3.2 Compare the number of ballots voted by provisional and precinct voters to the precinct’s computer tally. Resolve or explain any discrepancy.

5.2.3.2.1 Remake and process any ballots not counted on election night because of damage, invalid identification punches, or any other reason.

5.2.3.2.2 Search election supplies and equipment, including unused and spoiled ballots, ballot containers, etc., for ballots not accounted for.

5.2.3.2.3 Process any found ballots.

## 5.3 Canvassing Absent Voter Ballots

The election official is accountable for absent voter ballots to the same extent, as nearly as practicable, as for precinct ballots.

5.3.1 Prepare a Ballot Statement for each ballot style or special absent voter “precinct” showing the number of ballots produced (received), any defective ballots received from the vendor, spoiled or damaged ballots, the number of returned ballots that were challenged, and the number to be counted.

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5.3.2 Reconcile the statement to demonstrate that the total of unused, defective, spoiled, issued, and replaced ballots equals the number received. Resolve or explain any discrepancy.

5.3.3 Compare the computer count to the number of ballots to be counted, as shown on the Ballot Statement. Resolve or explain any discrepancy.

5.3.4 Process any outstanding ballots not counted in the semi-official count.

## 5.4 Canvassing Write-In Votes

5.4.1 Examine the ballots with write-ins that were processed by Ballot Inspection Boards, separate Write-in Processing Boards, Absent Voter Ballot Processing Boards or Canvassing Boards to verify that the names written in are for valid candidates.

5.4.2 Review the tallies of valid write-in votes by precinct or absent voter ballot style, and summarize by jurisdiction.

5.4.3 Prepare “Statement of Write-in Votes” for inclusion in the official “Certified Statement of Election Results”.

## 5.5 Automatic Manual Recount in One Percent of the Precincts

5.5.1 For the purpose of validating the accuracy of the computer count, within fifteen days after every election at which the Optech III P-Eagle system was used, a public manual recount of the ballots cast in at least one percent of the precincts, chosen at random (except as described in Section 5.5.3, below), shall be conducted as to all candidates and ballot measures voted on. If the random selection of precincts results in an office or ballot measure not being manually recounted, as many additional precincts as necessary shall be selected and manually recounted as to any office or ballot measure not recounted in the original sample.

5.5.2 Precincts selected at random pursuant to Elections Code section 15645 shall be chosen by an individual who is designated by the responsible election official and

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who is not the same person, or a relative of the person responsible for election coding. Selected precinct numbers shall not be revealed to such personnel until the semi-official count is complete.

5.5.3 In the event a processor, preprocessor, or Eagle fails after the semi-official or official ballot tally process has begun, and regardless of whether or not the equipment is to be returned to service following repair and successful processing of the prescribed logic and accuracy tests, the ballots from the last precinct tallied on the equipment prior to the failure shall be included in the automatic manual recount.

If a discrepancy is discovered between the automated tally and the automatic manual recount tally, each precinct's ballots which had been read and processed by the failed equipment, subsequent to the time of the last successfully completed logic and accuracy test by the failed equipment, shall be tallied again.

5.5.4 The guidelines set forth in Section 6.5 concerning the interpretation and counting of valid voting position marks, shall be followed during the automatic recount of ballots.

## 5.6 Update Computer Counts

(This may be done as often as the election official deems necessary during the canvass process.)

5.6.1 During the Official Canvass, previously uncounted validly voted ballots must be counted in compliance with provisions of this Section 5. Eagles, MemoryPacks, MemoryPack Readers and Summary Systems may again be used. Any and all equipment and components to be used for this purpose must have Logic and Accuracy tests performed as directed herein.

5.6.2 Verify that provisional voter ballots, add-on ballots from election night or found during the canvass, and add-on absent voter ballots have header code printing of the appropriate configuration and for the correct precinct or ballot style.

5.6.3 Process ballots, by precinct, or ballot style, through the Eagle and ballot counting program. Compare new computer counts to Ballot Statements. Resolve or explain any remaining discrepancies. Original and later Log/Results tapes may be examined to facilitate this resolution.

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5.6.4 If the original computer count for any precinct has been found to be incorrect, or if there are precincts in which unresolved discrepancies remain, the ballots from such precincts shall be reprocessed through the Eagle and ballot counting program. Compare new computer counts to Ballot Statements. Resolve or explain any remaining discrepancies. Original and later Log/Results tapes may be examined to facilitate this resolution.

5.6.5 Upon completion of update session, rerun Logic and Accuracy Tests and confirm results.

## 5.7 Checking Unused Ballots

Unused ballots will be processed in accordance with Elections Code section 14403 or 14404. Precinct officers will seal or deface unused precinct ballots, and election personnel in the office of the election official will seal or deface unused absent voter ballots and unissued ballots. The election official may inspect and count unused ballots as necessary to reconcile the ballot count during the official canvass.

## 5.8 Retention of Election Materials

Upon the certification of the election results, Elections Code sections 17300 through 17306 and 15307 apply to the handling, security and disposition of unused ballots and other elections materials. As noted in various sections of this document, MemoryPacks are not deemed to fall within the purview of these Election Code sections. The retention period for ballots and related election materials is six months for all elections if no federal elections are involved. The federal election retention period is twenty-two months. Retention periods may be extended in the event of a court challenge.

## 5.9 Adherence to Established Procedures

All operations associated with the official canvass and post-election procedures shall be performed in accordance with the applicable control and security provisions of Sections 2, 3, and 4. No operation or activity which results in a revision to voting data produced by the semi-official canvass shall be performed without the presence of a properly-constituted Election Observer Panel, Logic and Accuracy Board, or an equivalent administrative and technical control body authorized to

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verify the correctness of the operations and responsible for maintaining accurate and complete audit records.

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# 6 MANUAL RECOUNT PROCEDURES

## 6.1 Request for Recount

A request for a recount and the conduct of the recount shall be made in accordance with Elections Code section ~~47440~~ 15600 and following.

## 6.2 Observers

Each candidate, and each side in the case of a ballot measure, shall be allowed not more than two observers for each recount board. Observers may not interfere in the recount process, nor direct questions to any member of the recount board, and may not touch or handle the ballots. All questions must be directed to the election official in charge of the recount.

## 6.3 Hours of Operation

Prior to the beginning of the recount, all parties will be notified of the hours of operation.

## 6.4 Ballot Supervision/Breaks

At least two people will attend ballots at all times during the recount, including breaks and lunch periods.

Recount boards will be permitted break periods in the morning and afternoon, in addition to a lunch break. They will not stop for a break or for lunch while recounting a precinct.

## 6.5 Voting Arrow Marking

### 6.5.1 Invalid Marks

Marks that do not completely connect the arrow head to the arrow tail are recorded as no votes.

Marks made with any other than an approved marking device are recorded as no votes except for some absent voter ballots. On absent voter ballots any mark that completely connects a voting arrow head to the arrow tail is considered a valid vote.

## 6.6 Overvote

A ballot condition which arises when the voter votes for more candidates than the number of candidates to be elected. In an office to which one candidate can be nominated or elected, a second vote creates an overvoted condition. The result is that no vote for that office can be tallied, since the voter's intent is unknown.

In the case of ballot measures, a "Yes" vote and a "No" vote for the same measure creates the overvoted condition.

No vote shall be counted for any candidate or ballot measure when an overvote occurs. The number of overvotes shall be recorded for each office or ballot measure.

## 6.7 Undervote

A ballot condition which arises when the voter votes for fewer candidates than the number of candidates to elect, or when the voter does not vote for or against a ballot measure.

Tallying the number of undervotes in a manual recount will add significant time to the manual recount process. The undervotes should be tallied only as part of the machine tally process.

## 6.8 Blank (non) Votes

A ballot condition which arises when the voter does not vote for any candidate to an office or for or against a ballot measure.

(See 6.5.x above).

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# 7 ELECTION SECURITY PROVISIONS

## 7.1 Ballot Counting System Security

The election official shall ensure the protection of the election tally process from intentional manipulation, fraudulent manipulation, fraudulent and intentional manipulation, malicious mischief, accidents, and errors.

Within one year following the adoption of these procedures, each jurisdiction shall:

7.1.1 Establish procedures to identify changes to the ballot tallying system, including dates and times that files are created, modified, or accessed, and by whom. These procedures must also include a check list and sign-off requirement for the system proofing tasks outlined in Section 2.

7.1.2 Establish procedures for the physical protection of facilities, and data and communications access controls; including intrusion and fire alarms, temperature and humidity sensors, etc.

The procedures shall also include provisions for locked facilities for computers which are dedicated discretely to elections as well as for voted and non-voted ballots and counted and uncounted ballots. Such procedures shall not preclude the accessibility of Eagles nor computers for purposes of testing, repair, demonstration, training or for other purposes which are deemed justifiable by the election official.

7.1.3 Establish contingency plans for ballot counting, including either backup ballot counting facilities under the election official's supervision, or the availability of such facilities from another jurisdiction, or from a vendor, or from another source. Such plans may take note of the existence of multiple Eagles, and/or multiple components of the Summary System, if such is the case, citing these situations as adequate backup.

In addition to the ballot counting program sent to the Secretary of State pursuant to Elections Code section ~~14950~~ 17500, each election official shall store another copy of the ballot counting program in an off site secure-but-readily-accessible location.

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7.1.4 Establish procedures for internal security, i.e., the protection of ballot counting hardware, firmware, and software from fraudulent manipulation by persons within the elections office.

These procedures must provide for:

- restricted access to ballot counting hardware, firmware, and software;
- individual passwords which must be complex and frequently changed;
- physical protection of all non-voted precinct and absent voter ballots, as well as of all tallied and non-tallied ballots, by use of logs to chronicle their quantity, use, and access before and after the election.

A complete copy of each election official's security procedures shall be submitted to the Secretary of State for review and approval by February 1 of each even-numbered year beginning in 1992. In lieu of the annual submission of this plan, the election official may affirm that no change has been made to previously approved procedures, or may submit updates to the procedures on a continuing basis. If no such plan has been formulated prior to February 1, 1992, it shall be submitted when completed.

## 7.2 Audit Trails

All ballot counting operations including mandated pre- and post-election testing, must be documented in sequential order. An automated and/or manual record or log must be maintained to record the time and date of "system events" related to ballot counting.

"System events" in the ballot counting process include:

- initiation of the ballot count program
- clearing totals
- running logic and accuracy tests
- hardware failures, if any
- repairing hardware (including running accuracy tests after repairs), if they occur.

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- system crashes and restarts, if any
- communications between multiple systems, if employed.
- lost communication to remote sites, if employed.
- time communication is restarted, if employed.

This log or record shall be continued until final certification of results, shall be retained for the same time period as ballots for that election, and shall be subject to the same physical security and integrity measures.

Specific audit trails shall include where applicable:

7.2.1 Exception Handling/Error messages during ballot tallying, including:

- messages generated by the computer's exception handlers<sup>2</sup> or error routines. (The exception handling/error message may be in numeric error code, English language translation, or a combination of the two);
- identification code and number of hardware and software failures (their source and disposition);
- record of the operating system's data read/write/verify, parity or check sum errors and retries.

7.2.2 System status messages, such as:

- diagnostic and status messages upon start up of ballot tallying;
- "zero totals" check; and,
- initialization or termination of processing by Eagles.

7.2.3 Operator interaction with system (TIME, ACTION TAKEN)

7.2.4 Ballot-related exceptions (e.g., ballots not machine-readable, ballots requiring special handling, aborted or deleted precincts, etc.)

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<sup>2</sup>Exception handlers are programming codes invoked only in the event of an error. This code may be part of either the operating system or the application program.

7.2.5 Copies of required tests.

## 7.3 Statistical Ballot Data Required

The following items are critical to tracking and reporting the ballot counting process, and must be maintained:

7.3.1 For the election definition phase, diagnostic proof listings of candidates and active vote positions for each ballot style or precinct.

7.3.2 The number of ballots read within each precinct, by type, including totals for each party in primary elections.

7.3.3 The total number of ballots processed.

7.3.4 Separate accumulations and reporting of the quantity of overvotes, undervotes, and write-ins within each precinct for each race or issue.

7.3.5 Availability of the above information in summary and by precinct.

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# 8 CERTIFICATION AND REPORTING REQUIREMENTS

## 8.1 Biennial Certification of Hardware

Elections Code section 19220 requires each election official to inspect and certify the accuracy of their voting or vote tabulating equipment at least once every two years. The election official shall certify the results of their inspection to the Secretary of State.

A copy of a sample certificate is attached to these procedures as Appendix A, following this Section 8.

## 8.2 Hardware Certification and Notification.

### 8.2.1 Certification

All ballot readers and specialized vote tabulating equipment must be certified for use in elections by the Secretary of State prior to use in any election.

Certification procedures are available upon request from the Secretary of State's Elections Division.

### 8.2.2 Notification

For each statewide election, the responsible county election official shall cause to be prepared a list, including quantities, of all equipment to be used to tabulate votes during the semi-official and official canvass.

8.2.3 Seven days before each statewide election, the election official shall certify to the Secretary of State the results of the logic tests as well as the accurate functioning of all ballot counting equipment. This certification shall also affirm the use of the same equipment for pre-election testing and for semi-official and official vote canvasses. In the event of a change to the ballot tally program occurring after this certification, an amended certificate shall be submitted no later than the day before the election.

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8.2.4 In the event any equipment is repaired, altered or replaced following the certification specified in Section 8.2.3 and prior to completion of the official canvass of the vote, an amended certification of logic and accuracy testing and a revised list of equipment used must be submitted to the Secretary of State not later than submission of official canvass results.

## 8.3 Election Observer Panel

All procedures prescribed herein shall be carried out in full view of the public insofar as feasible. In addition, the responsible election official shall devise a plan whereby all critical procedures of the vote tallying process are open to observation by an Election Observer Panel. Representatives of the qualified political parties and representatives of the news media may be among those invited to serve on this panel and shall be given the opportunity to observe that the correct procedures are followed in the receiving, processing, and tallying of all voted ballots.

## 8.4 Logic and Accuracy Certification

A Logic and Accuracy Board shall be appointed by the responsible election official and, insofar as is practicable, shall be comprised of the same persons prior to, during, and after the election. The Board shall have the following duties:

8.4.1 Receive from the election official all required test materials and take steps to ensure the security of said materials prior to, during, and after the election, except when the materials are properly in the possession of one of the other boards or election officials as required by these procedures.

8.4.2 Verify the correctness of the logic and accuracy test MemoryPacks and the logic and accuracy test ballots. This verification shall also be required for any of said material which must be replaced.

8.4.3 Observe the performance and verify results of all required tests.

8.4.4 Note any discrepancies and problems and affirm their resolution or correction.

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8.4.5 Deliver into the custody of the election official all required test materials and printed output.

8.4.6 Certify to the performance of each of the above-prescribed duties as well as those otherwise established by the procedures; provided that all members of the Board shall sign the appropriate certificate or certificates.

Final pre-election certification shall be made to the Secretary of State no less than seven days before each statewide election. This certification shall be made by the responsible election official based on the Logic and Accuracy Board's certification of successful testing. In the event an amendment to the ballot counting program is required following this certification, the election official must immediately recertify to the Secretary of State.

## 8.5 Submit Ballot Tally Programs to Secretary of State.

Ballot tally programs for statewide elections are to be deposited with the Secretary of State no later than seven days prior to each statewide election. Ballot tally programs must be accompanied by the election official's certification of testing, the list of vote counting equipment used and a notification that he has caused MemoryPacks to be programmed in conformity with the Ballot Path And Striping Regulations as set forth in Table 2 herein. Refer to Elections Code section ~~14950~~ 17500. Should changes be required following certification and submission to the Secretary of State, resubmission and recertification is required.

## 8.6 Election Night and Post-Election Reporting

Any delays in election night's semi-official canvass reporting due to hardware, software, environmental, or human causes which result in failure to report results to the Secretary of State at least every two hours shall be reported to her or him by the 28th day following the election. The responsible election official may also report other delays in the processing of ballots as he or she deems appropriate.

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## 8.7 Preparation of Specific Written Procedures

Each election official shall prepare specific written procedures for each phase, step and procedure in the preparation, operation of polling places, vote counting and official canvasses of elections. Written procedures must also include instructions to precinct officials regarding proper handling of absent voter and provisional voter ballots as well as a description of procedures used to manually recount ballots pursuant to Elections Code section ~~17190~~ 15645.

These procedures must be prepared and submitted to the Elections Division of the Secretary of State's Office within two years following the adoption of these procedures by the Secretary of State. Upon submission, the elections jurisdiction's procedures shall be reviewed for compliance with state procedures, and the election official shall be advised of any necessary revisions.

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# APPENDIX A

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## Certification by Logic and Accuracy Board

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We, the undersigned, having been appointed by the elections official in the county named below to verify the logic of the computer vote count program for the election indicated below, as required by the Procedures adopted pursuant to Elections Code section 19205, do hereby certify through the Elections Official to the Secretary of State: THAT the pre-vote counting tests, as defined in the above-mentioned procedures, have been performed;

THAT the pre-vote counting test results have been compared with the pre-determined correct totals for each office and ballot measure;

THAT the cause of any discrepancy was found and corrected; and,

THAT the logic test programs, test ballot cards, and test printed output which were certified as correct by the Logic Verification Board were delivered into the custody of the Elections Official.

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ELECTIONS OFFICIAL'S NAME AND TITLE

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COUNTY

---

ELECTION DATE

---

VOTE COUNTING SYSTEM

---

---

PRINTED NAME OF FIRST BOARD MEMBER

---

SIGNATURE OF FIRST BOARD MEMBER AND DATE

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PRINTED NAME OF SECOND BOARD MEMBER

---

SIGNATURE OF SECOND BOARD MEMBER AND DATE

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# APPENDIX B

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## Certificate of Biennial Inspection

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I, the elections official named below, hereby certify that in the normal course of pre-election hardware maintenance and testing of our voting and vote tabulating equipment, for the election indicated below, that I have found the voting and vote tabulating equipment for the city/county named below to be operating correctly and accurately. This certificate is issued pursuant to Elections Code section 19220.

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ELECTIONS OFFICIAL'S NAME AND TITLE

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ELECTION DATE	COUNTY
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SIGNATURE AND DATE

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SEAL

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