

ELECTION ASSISTANCE COMMISSION

Proposed Voluntary Guidance on Implementation of Statewide Voter Registration Lists

AGENCY: United States Election Assistance Commission (EAC).

ACTION: NOTICE; proposed guidance and request for comments.

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**SUMMARY:** The EAC is proposing voluntary policy guidance on the interpretation of Section 303 (a) of the Help America Vote Act of 2002 (HAVA). HAVA was enacted to set standards for the administration of Federal elections. Included in the new standards is a requirement that each State develop and maintain a single, statewide list of registered voters. The voluntary guidance proposed by EAC will assist the States in understanding and interpreting HAVA's standards regarding statewide voter registration lists.

**DATES (*Comments*):** Submit written or electronic comments on this draft guidance on or before 5:00 p.m. EDT on May 25, 2005.

**ADDRESSES:** Send comments to Juliet Thompson, General Counsel, via mail to U.S. Election Assistance Commission, 1225 New York Avenue, Suite 1100, Washington, D.C. 20005; via fax to 202-566-1392; or via email to [guidance@eac.gov](mailto:guidance@eac.gov). An electronic copy of the proposed guidance may be found on the EAC's web site: <http://www.eac.gov>.

**FOR FURTHER INFORMATION CONTACT:** Juliet Thompson, General Counsel, Washington, D.C., (202)566-3100, Fax: (202)566-1392.

**PROPOSED VOLUNTARY GUIDANCE ON IMPLEMENTATION OF  
STATEWIDE VOTER REGISTRATION LISTS:**

**I. INTRODUCTION:**

The Help America Vote Act of 2002 (HAVA) requires the Chief Election Official in each State to implement a “single, uniform, official, centralized, interactive computerized statewide voter registration list.” That list is to be “defined, maintained, and administered at the State level” and must contain the “name and registration information of every legally registered voter in the State.”

The details of implementing these statewide voter registration lists were left to the States. However, Congress authorized the United States Election Assistance Commission (EAC) to issue voluntary guidance to assist the States with interpreting and implementing the provisions of HAVA as they relate to the requirement for a statewide voter registration list. It is important to note, however, that the EAC does not have legal authority to interpret HAVA beyond providing voluntary guidance in assisting States and local governments to meet the requirements of HAVA. The civil enforcement of Title III of HAVA is expressly assigned to the United States Department of Justice (DOJ).

Although it is clear that a single, uniform, official, centralized, interactive computerized voter registration list is one that is technically and functionally able to perform tasks described in Sections 303(a)(1)(A)(i) through 303(a)(1)(A)(vii) of HAVA, clarification is needed as to how and to what extent each of these functions must be accomplished by the statewide voter registration list. The following is interpretative guidance that clarifies the meaning of certain portions of Section 303(a) of HAVA (42 U.S.C. 15483(a)).

The guidance also serves to encourage state and local election officials to work together to define and assume their appropriate responsibilities for meeting this HAVA requirement, as well as to engage other relevant stakeholders in this process.

The guidance set forth below was developed by the EAC through a process which involved holding a public meeting regarding the statewide voter registration lists as well as convening a working group of state and local election officials to assist with identifying the issues and solutions involved with implementing a statewide voter registration list. EAC held a public meeting wherein it received testimony from four state election officials whose states have implemented statewide voter registration lists, either prior to or since the passage of HAVA. Subsequently, EAC, assisted by the National Academies, convened a two-day working group meeting wherein state and local election officials discussed issues that persist in the implementation of this HAVA requirement. The working group received technical assistance from technology experts invited by the Academies and representatives of the country's motor vehicle administrators. EAC used these discussions as a basis for developing the guidance that is presented below.

The following guidance on statewide voter registration lists is restricted to issues of policy related to the development and implementation of a single, uniform, official, centralized interactive computerized statewide voter registration list. EAC and the working group of state and local election officials will continue to explore technical issues related to the maintenance and upgrade of these database systems, with assistance from the National Academies. Additional guidance and/or best practices related to these technology issues will be developed, presented for comment, and adopted in the coming months.

## **II. SCOPE AND DEFINITIONS**

### **1. Is guidance regarding statewide voter registration lists or Section 303(a) of HAVA mandatory?**

No. The guidance issued here by EAC is voluntary. States can choose to adopt this guidance as interpretative of HAVA's requirement for a statewide voter registration list.

### **2. Who would benefit from this guidance?**

This guidance is targeted to assist the States and local governments in fulfilling their requirements under Section 303(a) of HAVA. This guidance may help election officials understand HAVA's intent to comprise a single, uniform statewide voter registration list and the responsibilities that HAVA places on all election officials to assure that the names and information contained in the statewide voter registration list are accurate.

### **3. To whom is Section 303(a) of HAVA applicable?**

The provisions of Section 303(a) apply to all States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands except those that on or after the date of enactment of HAVA had no requirement for registration of voters with respect to elections for Federal office. Currently, only North Dakota has no voter registration requirement.

### **4. Does this guidance in any way alter, interpret, or effect the requirements of the National Voter Registration Act of 1993?**

No. Nothing in this guidance should be construed to alter, interpret or effect, in any way whatsoever, the requirements of the National Voter Registration Act of 1993,

including requirements and timeframes with respect to the administration of voter registration and/or the process States must follow in removing names of registrants from the voting rolls.

**5. Who is a local election official?**

A local election official is the person or persons who have primary legal responsibility for determining the eligibility of an individual to vote and maintaining and updating the voter registration information of eligible voters in his/her voter registration jurisdiction.

**6. Who is responsible for implementing the provisions of Section 303(a) of HAVA?**

The State through the State's Chief Election Official is responsible for ensuring that the State has a single, uniform, official, centralized, interactive computerized statewide voter registration list. However, local election officials also have certain responsibilities outlined in Section 303(a) of HAVA, particularly with regard to entering voter registration information into the statewide voter registration list on an expedited basis.

**7. What is the official list of voters pursuant to Section 303(a) of HAVA?**

The official list is the list defined, maintained and administered by the State through the State's Chief Election Official.

### **III. GUIDANCE ON STATEWIDE VOTER REGISTRATION LISTS**

#### **8. What types of databases meet the requirements of HAVA to generate a single, uniform voter registration list?**

HAVA requires State and local election officials to use and access the same statewide voter registration list for purposes of conducting voter registration and voting in an election for Federal office. While databases hosted on a single, central platform (e.g., mainframe and/or client servers) are most closely akin to the requirements of HAVA, a database which gathers its information from local voter registration databases or servers may also meet the single, uniform list requirement as long as the statewide voter registration list is defined, maintained and administered by the State (e.g., the State establishes uniform software for use by all local databases) and the statewide voter registration list contains the name and registration information of every legally registered voter in the State with a unique identifier (i.e. the last four digits of a Social Security Number, driver's license number, or a unique number assigned by the election official).

#### **9. How frequently must the statewide voter registration list be synchronized with any local databases to assure that the statewide voter registration list is the single source for the names and registration information of all legally registered voters in the State?**

At a minimum, the statewide voter registration list should be synchronized with local voter registration databases at least once every 24 hours to assure that the statewide voter registration list contains the names and registration information for all legally registered voters in the State and that local election officials throughout the State have immediate electronic access to such information, as appropriate.

**10. How should the statewide voter registration list be coordinated with other agency databases?**

HAVA makes accurate voter registration lists a priority. States should coordinate the statewide voter registration list with other state agency databases (e.g., voter registration agencies as defined by NVRA) that may contain information relevant to the statewide voter registration list.

Additionally, coordination between the statewide voter registration list and other government sources of information (e.g., death and felony records) is equally critical. States should take all steps necessary to provide for regular coordination of their statewide voter registration lists with death and felony records so as to assure that the statewide voter registration list is current.

Moreover, Section 303(a) of HAVA requires States to match information received on voter registration forms against drivers license and social security databases for the purpose of verifying the accuracy of the information received from all new voter registrants. Under Section 303(b), such validation provides an exemption to the voter identification requirement for first-time registrants by mail if the information matches.

**11. Who should have immediate electronic access to the statewide voter registration list?**

At a minimum, local election officials must have immediate electronic access to the statewide voter registration list. This means that the local election official must have access through some electronic connection to the official statewide voter registration list when needed to process voter registrations, assist voters, input or change data, or determine eligibility of an individual to vote. The level of access given to each user

should be appropriate to the function of the user and should be established collaboratively by the State and local election officials. However, all voter registration information obtained by any local election official must be electronically entered into the statewide voter registration list on an expedited basis at the time the information is provided to the local official.

Dated: April 12, 2005

Gracia Hillman  
Chair  
US Election Assistance Commission

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