

1 **AGENCY:** Election Assistance Commission.

2 **ACTION:** Notice of Proposed Rulemaking.

3 **SUMMARY:** The U. S. Election Assistance Commission (EAC) seeks
4 comments on proposed changes to its regulations pertaining to the National Voter
5 Registration Act of 1993 (NVRA). Section 9(a) of the NVRA requires the responsible
6 agency to issue regulations for developing a national mail voter registration form and for
7 submitting a biennial report to Congress on the impact of the NVRA. The regulations
8 were originally adopted by the Federal Election Commission (FEC) in 1994 as the
9 agency that prior to EAC, was responsible for NVRA implementation. The Help America
10 Vote Act of 2002 (HAVA) transferred authority for promulgating NVRA regulations
11 from the FEC to EAC. The FEC and EAC entered into a joint rulemaking to transfer
12 FEC's then-existing NVRA regulations to EAC; the transfer became effective on August
13 28, 2009. EAC proposes to amend its NVRA regulations to ensure that its regulations are
14 consistent with HAVA and to make some technical amendments.
15 EAC will not make any changes to the NVRA regulations until after the November 2010
16 Federal election.

17 **DATES:** Comments must be received no later than 5 P.M. EDT on [INSERT
18 DATE X DAYS AFTER PUBLICATION OR DATE CERTAIN].

19 **ADDRESSES:** Submit your comments by any of the following methods:

20 *Note: Those commenting are strongly encouraged to submit comments via*
21 *www.regulations.gov to ensure timely receipt and consideration.*

22 *http://www.regulations.gov:* Follow the online instructions for submitting comments.

1 *E-mail:* Comments should be addressed to NVRAregs@eac.gov. Comments sent via e-
2 mail must include the full name, e-mail address, and the postal address of the commenter.
3 E-mail comments that do not contain the full name, e-mail address, and postal address of
4 the commenter will not be considered.

5 *Mail:* Send to “EAC Regulations” at U.S. Election Assistance Commission, 1201 New
6 York Avenue, NW, Suite 300, Washington, DC 20005. Comments sent by mail must
7 include the full name and the postal address of the commenter and be unbound, be on
8 paper no larger than 8.5” by 11”; and be submitted in duplicate. Comments received via
9 mail that do not contain the full name, e-mail address, and postal address of the
10 commenter will not be considered. Mailed comments will not be accepted in electronic
11 form (floppy disk, CD, etc.).

12 **Note:** All submissions must include the following in the subject line: “Election
13 Assistance Commission National Voter Registration Act Regulations.” All comments
14 received will be publicly posted, including any personal information provided. However,
15 EAC will not post comments that contain profanity, vulgarity, threats, or other
16 inappropriate language.

17 **FOR FURTHER INFORMATION CONTACT:**

18 Ms. Karen Lynn-Dyson, Director, Division of Research, Policy and Programs or Mr.
19 William P. Boehm, Deputy Director of Policy, (202) 566-3100 or (866) 747-1471 (toll
20 free). You may also contact Ms. Lynn-Dyson or Mr. Boehm at NVRAregs@eac.gov.

21 **SUPPLEMENTARY INFORMATION**

22 ***Background***

1 The National Voter Registration Act of 1993 (NVRA), 42 U.S.C. § 1973gg *et seq.*
2 requires the responsible agency to develop a national mail voter registration form for
3 elections to Federal office, and to submit a report to Congress no later than June 30 of
4 each odd-numbered year that assesses the impact of the NVRA and recommends
5 improvements in Federal and State procedures, forms, and other matters affected by the
6 NVRA. The NVRA requires the U.S. Election Assistance Commission (EAC) to
7 promulgate such regulations to administer its responsibilities under the NVRA in
8 consultation with the chief election officers of the States. EAC views the public
9 comment period prescribed in this notice of proposed rulemaking as incorporating the
10 consultation with the chief election officers of the States.
11 After receiving public comment, the Federal Election Commission (FEC), which
12 previously had responsibility for the NVRA, issued regulations implementing these
13 requirements on June 23, 1994. *See* 59 FR 32323 June 23, 1994. The Help America Vote
14 Act of 2002 (HAVA) 42 U.S.C. § 15301 *et seq.*, transferred authority from the FEC to
15 EAC. The FEC and EAC entered into a joint rulemaking to transfer the NVRA
16 regulations from the FEC to EAC on July 29, 2009. *See* 74 FR 37520 July 29, 2009. The
17 transfer became effective on August 28, 2009. In this notice of proposed rulemaking,
18 EAC proposes to amend the NVRA regulations within the authority granted by the
19 NVRA to reflect HAVA requirements and to make technical amendments.

20 ***National Mail Voter Registration Form***

21 Persons wishing to register to vote may use the national mail voter registration form
22 (“Federal form” or “form”) to apply for voter registration. After completing the form,
23 applicants submit their forms for processing. States covered by the NVRA process the

1 information from the form to register an applicant to vote. The NVRA does not apply to
2 States “in which, under law that is in effect continuously on and after August 1, 1994,
3 there is no voter registration requirement for any voter in the State with respect to an
4 election for Federal office.” *See* 42 U.S.C. § 1973gg-2(b)(1). North Dakota is exempt
5 from implementing the NVRA under this provision. Nor does the NVRA apply to States
6 “in which, under law that is in effect continuously on and after August 1, 1994, or that
7 was enacted on or prior to August 1, 1994 and by its terms is to come into effect upon the
8 enactment ...” of the NVRA, “so long as that law remains in effect, all voters in the State
9 may register to vote at the polling place at the time of voting in a general election for
10 Federal office.” *See* 42 U.S.C. § 1973gg-2(b)(2). Idaho, Minnesota, New Hampshire,
11 Wisconsin and Wyoming are exempt from the NVRA under this provision. Neither EAC
12 nor any other Federal agency processes or collects any information from the Federal form
13 that a registration applicant submits to a State. Rather, EAC prescribes the Federal form,
14 and States collect and record the information applicants submit.

15 The Federal form is composed of the registration application, instructions for
16 completing the application (General Instructions and Application Instructions), and State-
17 specific instructions that identify each State’s particular requirements. A copy of the
18 current form is available on EAC’s website, at www.eac.gov (click on National Voter
19 Registration Act). Information about obtaining a form can be obtained by calling (202)
20 566-3100 or (866) 747-1471 (toll free).

21 In seeking comments on the proposed regulation applicable to the Federal form,
22 EAC encourages commenters to consider the usability and clarity of the Federal form
23 while accommodating requirements under the NVRA and HAVA.

1 HAVA requirements affect both the content and the format of the Federal
2 form. HAVA requires the addition of specific questions on citizenship and age, mandates
3 the inclusion of instructions concerning documentation that is required from first-time
4 voters registering by mail, and specifies voter identification number requirements for
5 some States. EAC seeks comment on how the regulations applicable to the Federal form
6 should be amended to incorporate these requirements. EAC's current regulations
7 implementing the NVRA can be found at 11 CFR 9428.

8 The FEC, in accordance with the mandates of HAVA, incorporated the HAVA
9 requirements on the Federal form in 2003. The NVRA regulations, however, have not
10 been similarly amended to reflect the requirements in HAVA.

11 A copy of the proposed regulations with amendatory language can be reviewed at
12 the EAC website: www.eac.gov by clicking on the tab for the National Voter
13 Registration Act.

14 **I. Contents**

15 11 CFR 9428.4(a) and (c), in compliance with the NVRA requirements at 42
16 U.S.C. § 1973gg-7(b)(1), directs applicants to provide: (1) their full name; (2) any
17 former name(s) (if applicable); (3) their residential address; (4) their mailing address (if
18 different); (5) a former address under certain circumstances; (6) their date of birth; (7)
19 their telephone number (optional); (8) their voter identification number, with reference to
20 the State-specific instructions for the State identification number requirements; (9) their
21 political party preference (for those States that require the declaration of party affiliation
22 in order to participate in that party's nominating process); and (10) a statement of
23 race/ethnicity (if required by the applicant's State). In accordance with 11 CFR

1 9428.4(b)(5) and in compliance with NVRA requirements at 42 U.S.C. § 1973gg-7(b)(1),
2 the application also provides a field for the name, address, and (optional) telephone
3 number of the person who assisted the applicant in completing the form, if the applicant
4 is unable to sign the application without assistance. In accordance with 11 CFR
5 9428.4(b)(1)-(3) and the NVRA requirements at 42 U.S.C. § 1973gg-7(b)(2), the form:
6 (1) specifies each eligibility requirement (including citizenship), with reference to the
7 eligibility requirements listed in the State-specific information; (2) contains an attestation
8 that the applicant meets each such requirement; and (3) provides a field on the
9 application for the signature of the applicant, under penalty of perjury. In addition, in
10 accordance with 11 CFR 9428.4(b)(4), (6), and (7) and the NVRA requirements at 42
11 U.S.C. § 1973gg-6(a)(5) and 7(b)(4)(i), the form includes: (1) a statement informing the
12 applicant of the penalties provided by law for submitting a false voter registration
13 application; (2) a statement that, if an applicant declines to register to vote, the fact that
14 the applicant has declined to register will remain confidential and will be used only for
15 voter registration purposes; and (3) a statement that if an applicant does register to vote,
16 the office at which the applicant submits a voter registration application will remain
17 confidential and the information provided will be used only for voter registration
18 purposes.

19 EAC is proposing to modify the regulations that address the contents of the
20 Federal form to account for HAVA requirements, and any exemptions to: (1) voter
21 identification number, in accordance with provisions at 42 U.S.C. § 15483(a)(5)(A) and
22 (D) and 42 U.S.C. § 15483(d)(1); (2) questions concerning citizenship and age, along
23 with associated check boxes and instructions, in accordance with 42 U.S.C. §

1 15483(b)(4)(A)(i) through (iii); and (3) instructions for first-time voters who are required
2 to provide voter identification documents, in accordance with requirements at 42 U.S.C.
3 § 15483(b)(1)-(3) and (4)(A)(iv). These proposed revisions would affect information
4 about the applicant's voter identification number, addressed by 11 CFR 9428.4(a)(6), and
5 the additional information listed in 11 CFR 9428.4(b).

6 **A. Voter Identification Number**

7 HAVA, at 42 U.S.C. § 15483(a)(5)(A)(i), provides that a State may not accept or
8 process an application for voter registration for an election for Federal office unless the
9 applicant includes: (1) a driver's license number, in the case of an applicant who has
10 been issued a current and valid driver's license; or (2) the last four digits of the
11 applicant's social security number, if the applicant does not have a valid driver's license.
12 HAVA exempts States from implementing this requirement if the applicant does not have
13 a driver's license number or social security number. 42 U.S.C. § 15483(a)(5)(A)(ii).
14 HAVA also provides that the identification (ID) number requirements of HAVA, at 42
15 U.S.C. § 15483(a)(5), are optional for those States permitted to use the social security
16 number on voter registration application in accordance with the Privacy Act of 1974 (5
17 U.S.C. § 552a note). 42 U.S.C. § 15483(a)(5)(D).

18 EAC proposes to revise 11 CFR 9428.4(a)(6)(i) to recognize that requirements of
19 Federal law may impact the notices that States are required to provide to applicants. The
20 effect of this proposed amendment will be to retain the current instructions for
21 completing Box 6-ID Number, which were previously placed on the form to comply with
22 HAVA. EAC also proposes a technical amendment to 11 CFR 9428.4(a)(6)(ii) to include
23 the Privacy Act notice provided when the social security number is requested or required.

1 EAC invites comments on the proposed regulation, at 11 CFR 9428.4(a)(6), and
2 specific suggestions for the instructions for Box 6-ID Number to provide clear direction
3 to applicants.

4 **B. Additional Information Required**

5 HAVA, at 42 U.S.C. § 15483(b)(4)(A)(i)-(iii), requires that the following four
6 statements be included on the form: (1) the question “Are you a citizen of the United
7 States of America?” and boxes for the applicant to check to indicate whether the
8 applicant is or is not a citizen of the United States; (2) the question “Will you be 18 years
9 of age on or before election day?” and boxes for the applicant to check to indicate
10 whether or not the applicant will be 18 years of age or older on election day; (3) the
11 statement “If you checked ‘no’ in response to either of these questions, do not complete
12 this form”; and (4) a statement informing the applicant that if the form is submitted by
13 mail and the individual is registering for the first time, additional documentation must be
14 submitted with the mail-in registration form in order to avoid having to provide it upon
15 voting the first time. The referenced documentation requirements and relevant
16 implementation provisions are addressed at 42 U.S.C. § 15483(b)(1)-(3).

17 EAC proposes to amend 11 CFR 9428.4(b) to recognize that Federal requirements
18 other than the NVRA may affect the listed requirements—for example, the Privacy Act
19 and HAVA—and to insert in the subsequent list the four HAVA items described above.
20 The elements of the Federal form required by HAVA are in addition to those previously
21 included by the NVRA. Therefore, nothing in the original FEC regulations or
22 corresponding language on the Federal form should be revised or deleted. The insertion
23 of the items will require the renumbering of the regulations.

1 The inclusion of the question “Will you be 18 years of age on or before election
2 day?”, which is required by 42 U.S.C. § 15483(b)(4)(A)(ii) requires additional
3 amendment to the NVRA regulations. Several States permit persons under age 18 to use
4 a voter registration form to register and to vote in primary elections if they will be 18
5 years of age by the date of the general election. Further, other States permit persons
6 under age 18 to use a voter registration form to pre-register to vote so that upon achieving
7 18 years of age, that applicant is registered to vote.

8 Due to differences in State age eligibility requirements, EAC proposes to amend
9 11 CFR 9428.4(b)(3) to provide for the placement of a notice underneath the sentence on
10 the application that instructs applicants not to complete the form if they checked “No” in
11 response to either question: The notice will advise applicants to review their State-
12 instructions for rules regarding eligibility to register prior to age 18. The effect of this
13 proposal is to retain the current exception notice, placed on the form in 2003 to
14 accommodate State age eligibility requirements.

15 Under HAVA, at 42 U.S.C. § 15483(b)(1) and (2), first-time voters have
16 additional documentation requirements that must be included along with the application.
17 First-time voters are individuals who have not “previously voted in an election for
18 Federal office in the State” or who have not “previously voted in such an election in the
19 jurisdiction and the jurisdiction is located in a State that does not have a computerized list
20 that complies with the requirements of” 42 U.S.C. § 15483(a), 42 U.S.C. §
21 15483(b)(1)(B). First-time voters who register by mail must provide current and valid
22 photo identification in person (or a copy of such photo identification if voting by mail),
23 or they must provide a copy of another document, such as a current utility bill or bank

1 statement, that shows their name and address before they will be allowed to vote. This
2 requirement does not apply if the voter includes a copy of current and valid photo
3 identification or other acceptable documentation as part of his or her voter registration
4 application. 42 U.S.C. § 15483(b)(3)(A). This requirement also does not apply to an
5 individual who is entitled to vote by absentee ballot under the Uniformed and Overseas
6 Citizens Absentee Voting Act, at 42 U.S.C. § 1973ff-1 et seq.; who is provided the right
7 to vote otherwise than in person under Section 3(b)(2)(B)(ii) of the Voting Accessibility
8 for the Elderly and Handicapped Act, at 42 U.S.C. § 1973ee-1(b)(2)(B)(ii); or who is
9 entitled to vote otherwise than in person under any other Federal law. Additionally, this
10 requirement is inapplicable to those who submit either a driver's license number or the
11 last four digits of the individual's social security number, and the State or local election
12 official matches the information with an existing State identification record bearing the
13 same number, name, and date of birth. 42 U.S.C. § 15483(b)(3)(B).

14 Given the potential variations among the States, EAC proposes to amend 11 CFR
15 9428.4(b) to require that an instruction be placed on the Federal form for first-time voters
16 who register by mail advising them: 1) of the acceptable forms of voter identification
17 documents; 2) to review their State-specific instructions to determine if they must
18 provide the documentation with the application to avoid having to provide it the first time
19 they vote; and 3) of Federal statutes under which certain persons who are entitled to vote
20 by absentee ballot and are exempt from providing such documentation.

21 EAC seeks comment on how the current form and corresponding regulations
22 should be revised to incorporate the first-time voters who register by mail provisions and
23 the variations in the provision's application in a concise and clear manner.

1 **C. Other Recommendations**

2 The primary purpose of this notice of proposed rulemaking is to promulgate
3 regulations necessitated by HAVA about the content of the national mail voter
4 registration form. However, EAC recognizes that the public may have comments about
5 other aspects of the content of the Federal form. EAC encourages other comments that
6 seek to improve the content of the Federal form other than those required by HAVA.
7 EAC is particularly interested in receiving comments on the following: (1) providing an
8 applicant for voter registration the option of inserting an e-mail address on the Federal
9 form and amend accordingly 11 CFR 9428.4(a)(5) and Box 5 on the form; (2)
10 incorporating a box into the Federal form so that applicants for voter registration may
11 also express their interest in becoming a poll worker; and (3) considering creative ways
12 to accommodate overseas citizens and military voters, such as through the placement of
13 boxes on the Federal form for applicants to indicate if they are a military or overseas
14 citizen, which may assist States in fulfilling the requirements of the Uniformed and
15 Overseas Citizens Absentee Voting Act (UOCAVA). EAC seeks comment on these
16 specific areas in addition to other specific recommendations for changes to the content of
17 the national mail voter registration form consistent with EAC's authority under the
18 NVRA and HAVA.

19 **II. Format**

20 The current regulations contain specifications for a sealable application printed on
21 card stock to facilitate the submission of the form by mail and to withstand the
22 subsequent handling by the postal service and election officials. The format
23 requirements for the Federal form are set forth at 11 CFR 9428.5. This regulation

1 addresses size, layout, color, signature field, and type size requirements for the form.
2 EAC proposes to change the current requirements related to format to facilitate the
3 inclusion of any required voter identification document. Specifically, EAC proposes to
4 remove any reference to a “card” in 11 CFR 9428.5(b), including the references to postal
5 service stock, weight regulations, and the perforated fold. In addition, EAC proposes to
6 delete 11 CFR 9428.5(c), which includes the layout requirement for a sealable
7 application, and any references to a two-sided application. The deletion of the current
8 paragraph (c) will require the renumbering of subsequent paragraphs.

9 In lieu of a sealable, two-sided application card that meets postal service
10 regulations and includes address lines to be completed by the applicant using the State
11 information provided, EAC proposes to adopt requirements for a lighter weight
12 application that can be enclosed, along with any required documentation, in an envelope
13 when submitted by mail. Instructions relating to this proposed change are already
14 contained on the form in the instruction entitled “How to Submit Your Application.”
15 This instruction directs the applicant to enclose the application, along with any required
16 voter identification document, in an envelope and to affix sufficient first-class postage.

17 EAC moreover proposes to amend the format-specific regulations to
18 accommodate first-time voters who register by mail. The current format specifications
19 cannot be implemented easily with the HAVA requirements using the sealable
20 application card because documentation submitted with the card could be lost in the mail.
21 Because this lighter weight stock does not meet postal service regulations for postcard
22 mailings, such applications either have to be submitted by mail in an envelope addressed
23 to the proper authority or submitted in person. The proposed revision to the format

1 regulations and the corresponding specifications would require all States that accept the
2 Federal form to accept the form on lighter weight paper.

3 EAC seeks comment on its proposed amendment of the current format-specific
4 regulations, especially as to how it may affect the submission of the application by
5 applicants and the subsequent handling of the application by election officials.

6 EAC further realizes that additional changes to format might be necessary or
7 desirable. EAC welcomes recommendations for changes in the format of the Federal
8 form. Commenters who offer specific suggestions on how to incorporate elements
9 consistent with the NVRA and HAVA are urged to consider how their proposed changes
10 would impact format requirements and, if appropriate, suggest any revisions to 11 CFR
11 9428.5 that might be necessary should their recommendations be considered for adoption.

12 EAC has created a “fillable” Federal form available in an electronic format on
13 its website for use by the public. Persons wishing to register to vote may access the form
14 on the website, fill the form out, print the form, sign it, and mail it to the appropriate
15 State address. At this time, EAC has not proposed an amendment to the current NVRA
16 regulations to address the use of the Federal form in an electronic format. EAC,
17 however, seeks comment on amending the regulations to incorporate new technologies to
18 facilitate applicants’ use of the Federal form. EAC is particularly interested in receiving
19 comments on how EAC’s regulations may be amended to accommodate the use of new
20 technologies in an accessible and usable format, consistent with Federal statutes and
21 regulations.

22 **III. Updates to Information on the Form**

1 11 CFR 9428.6 contains a list of information that each State is to provide to EAC
2 regarding its State-specific instructions. 11 CFR 9428.6(a) specifies a deadline for each
3 State to provide the information for its initial State-specific instructions to the FEC after
4 the NVRA was enacted. Subsection (a) states currently that “Each chief State election
5 official shall certify to the EAC within 30 days after July 25, 1994:” This deadline is past
6 and should be eliminated. EAC proposes that 11 CFR 9428.6(a) be amended to reflect
7 that the information included in this subsection is required to appear in the State-specific
8 instructions.

9 ***Report To Congress***

10 While HAVA did not affect the NVRA requirement that EAC submit a biennial
11 report to Congress, EAC requests NVRA-specific information as part of its Election
12 Administration and Voting Survey. EAC also uses this survey to request UOCAVA
13 information. The UOCAVA reporting deadline, however, is earlier than the current
14 NVRA reporting deadline at 11 CFR 9428.7(a). EAC believes these deadlines should be
15 uniform.

16 11 CFR 9428.7 prescribes the data that each State covered by the NVRA must
17 provide to EAC to enable it to submit the NVRA-required report to Congress in the year
18 following a Federal election. The deadline in Section 9428.7(a) requires each chief State
19 election official to file the prescribed information by March 31 of each odd-numbered
20 year. EAC obtains this information via the Election Administration and Voting Survey.
21 The Survey also contains questions related to election administration including those
22 prescribed by UOCAVA, relative to absentee ballots for military and overseas citizens.
23 Section 102 (c) of UOCAVA states “Not later than 90 days after the date of each

1 regularly scheduled general election for Federal office, each State and unit of local
2 government which administered the election shall (through the State, in the case of a unit
3 of local government) submit a report to the Election Assistance Commission (established
4 under the Help America Vote Act of 2002) on the combined number of absentee ballots
5 transmitted to absent uniformed services voters and overseas voters for the election and the
6 combined number of such ballots which were returned by such voters and cast in the election,
7 and shall make such report available to the general public.” Since UOCAVA information is
8 obtained from the States via the same survey containing information used to file the
9 report to Congress required by the NVRA at 42 U.S.C. § 1973gg-7(a), EAC is interested
10 in receiving public comment on changing the March 31 deadline contained in 11 CFR
11 9428.7 (a) to be consistent with the 90 day submission requirement specified in
12 UOCAVA.

13 ***Technical Amendments***

14 EAC proposes several technical amendments to 11 CFR 9428. First, 11 CFR
15 9428.1 should be amended to clearly identify that EAC is the agency responsible for
16 issuing regulations under the NVRA and to clarify that the regulations are impacted by
17 the passage of HAVA. Second, 11 CFR 9428.3 is similarly amended to clarify that
18 Subpart B of the regulations contains the requirements for the Federal form. Finally,
19 there are a number of sections which contain dates that are no longer relevant and,
20 therefore, should be deleted. These dates are contained in 11 CFR 9428.6(a), 9428.7(a)
21 and 9428.7(c).

22 Should the public wish to see previous requirements, those remain available
23 through archived versions of the Code of Federal Regulations. Further, should EAC take

1 action in its final rulemaking to remove 11 CFR 9428.6(a), its final rulemaking notice
2 will explain the change. The Federal Register notice of any final rulemaking will be
3 available through the printed and electronic versions of the Federal Register for historical
4 information.

5 **LIST OF SUBJECTS**

6 11 CFR Part 9428

7 National Voter Registration Act

8

9 EAC proposes to amend its regulations at 11 CFR pt. 9428 as follows:

10 **Title 11: Federal Elections**

11 **PART 9428—NATIONAL VOTER REGISTRATION ACT (42 U.S.C. 1973gg-1**
12 **et. seq.)**

13 **Subpart A—General Provisions**

14 § 9428.1 Purpose & scope.

15 § 9428.2 Definitions.

16 **Subpart B—National Mail Voter Registration Form**

17 § 9428.3 General information.

18 § 9428.4 Contents.

19 § 9428.5 Format.

20 § 9428.6 Chief state election official.

21 **Subpart C—Recordkeeping and Reporting**

22 § 9428.7 Contents of reports from the states.

23 _____

1 **Authority:** 42 U.S.C. § 1973gg-1 *et seq.*, 42 U.S.C. § 15301 *et seq.*).

2 **Source:** 59 FR 32323, June 23, 1994, unless otherwise noted. Redesignated at 74 F R
3 37520 July 29, 2009.

4

5 1. The authority citation for part 9428 reads as follows: Authority 42 U.S.C. 1973gg-1 *et.*
6 *seq.*, 42 U.S.C. 15301 *et seq.*

7

8 2. Revise the first sentence of § 9428.1 to read as follows:

9 § 9428.1 Purpose and Scope

10

11 The regulations in this part implement the responsibilities delegated to the U.S. Election
12 Assistance Commission under Section 9 of the National Voter Registration Act of 1993,
13 Public Law 103-31, 97 Stat. 77, 42 U.S.C. § 1973gg-1 *et seq.* (“NVRA”) as amended by
14 the Help America Vote Act of 2002 (Public Law 107-252, 116 Stat. 1666, 42 U.S.C. §
15 15301 *et seq.*).**

16

17 3. Revise paragraph (c) of § 9428.3 as follows:

18 § 9428.3 General Information

19 (c) States shall accept, use, and make available the form described in this Subpart.

20

21 4. Revise paragraphs (a)(6), (a)(6)(i), and (a)(6)(ii) of § 9428.4 to read as follows:

22 § 9428.4 Contents

23

1 (a) ***

2

3 (1) ***

4

5 (6) Voter Identification number as required or requested by the applicant's state of
6 residence for election administration purposes or as required by federal law

7

8 (i) The application shall direct the applicant to consult the accompanying state-specific
9 instructions to determine what type of voter identification number, is required or
10 requested by the applicant's state or by federal law affecting that state.

11

12 (ii) For each state that requests or requires the applicant's full social security number as
13 its voter identification, the state's Privacy Act notice required at 11 CFR 9428.6(c) shall
14 be reprinted with instructions for that state.

15

16 *****

17

18 5. Add new paragraphs (1)-(4) to § 9428.4(b) to read as follows:

19 (b) *Additional information required by federal law.* (42 U.S.C. § 1973gg-7(b) (2) and
20 (4) and the Help America Vote Act of 2002 42 U.S.C. §§ 15483(b)(4)(i) – (iv). The form
21 shall also:

1 (1) Include the question “Are you a citizen of the United States of America?”
2 and boxes for the applicant to check to indicate whether the applicant is or is not a citizen
3 of the United States.

4 (2) Include the question “Will you be 18 years of age on or before election
5 day?” and boxes for the applicant to check to indicate whether or not the applicant will
6 be 18 years of age or older on election day.

7 (3) With regard to the statements required in (1) and (2) include the statements “If you checked ‘no’
8 on the form indicate that you are eligible to register to vote now.)”

9 (4) Include instructions for first-time voters who register by mail that include the
10 list of acceptable voter identification documents, reference to the State instructions so
11 that applicants may determine if they must provide this documentation with the
12 application to avoid having to provide it the first time they vote, and the reference to
13 federal statutes under which certain persons are entitled to vote by absentee ballot and are
14 exempt from providing such documentation.

15 (5) Include an instruction advising applicants how to mail their completed
16 application.

17 *****

18 6. In § 9428.4(b), redesignate paragraphs (1)-(7) as paragraphs (6) through (12).

19 7. In § 9428.5 remove paragraph (c)

20 8. In § 9428.5 revise paragraphs (a) and (b) to read as follows:

21 § 9428.5 Format

22

1 (a) The application shall conform to the technical specifications described in this
2 Chapter.

3 (b) *Size.* The application shall consist of the top half of an 8.5” by 11” sheet of paper. The
4 bottom half of the paper shall contain space for the information set forth at 11 C.F.R. pt.
5 9428.4(c).

6 *****

7 9. In § 9428.6 revise paragraph (a) to read as follows:

8 § 9428.6 Format

9

10 (a) The following information shall be included for each state in the state-specific
11 instructions on the form:

12

13 *****

14

15 10. In § 9428.7 revise the first sentence of paragraph (a) to read as follows:

16 § 9428.7 Contents of reports from the states

17

18 (a) The chief state election official shall provide the information required under this
19 section with the Commission by March 31 of each odd-numbered year on a form to be
20 provided by the Commission. Reports shall be mailed to: U.S. Election Assistance
21 Commission, 1201 New York Avenue, NW, Suite 300*** Washington, DC 20005.

22 Respondents may also submit their reports as indicated in the instructions accompanying
23 the Election Administration and Voting Survey, which may provide for electronic

1 submission. The data to be reported in accordance with this section shall consist of
2 applications or responses received up to and including the date of the preceding Federal
3 general election.

4 [59 Fed Reg 32,323 (June 23, 1994), as amended at 59 Fed. Reg. 64,560 (Dec. 15, 1994).
5 Redesignated and amended at 74 Fed. Reg. 37,520 (July 29, 2009).]

6

7 * * * * *

8 **Signed:** _____

9 **Donetta L. Davidson**, Chair,
10 U.S. Election Assistance Commission

11

12

13 [Billing Code 6820-KF]