

The National Voter Registration Act of 1993 (NVRA)

These questions and answers are designed to provide information and guidance to state and local officials as well as the general public concerning the provisions of the NVRA and its interaction with the other statutes enforced by the Department. The Department welcomes comments concerning this document.

Questions and Answers

OVERVIEW

1. What is the NVRA?

The National Voter Registration Act of 1993 (also known as the “NVRA” or “motor voter law”) sets forth certain voter registration requirements with respect to elections for federal office. Section 5 of the NVRA requires that States offer voter registration opportunities at State motor vehicle agencies. Section 6 of the NVRA requires that States offer voter registration opportunities by mail-in application. Section 7 of the NVRA requires that States offer voter registration opportunities at certain State and local offices, including public assistance and disability offices. Section 8 of the NVRA contains requirements with respect to the administration of voter registration by States.

2. What States are covered by the NVRA’s requirements?

The requirements of the NVRA apply to 44 States and the District of Columbia. Six States (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming) are exempt from the NVRA because, on and after August 1, 1994, they either had no voter-registration requirements or had election-day voter registration at polling places with respect to elections for federal office. Likewise, the territories are not covered by the NVRA (Puerto Rico, Guam, Virgin Islands, American Samoa). While the NVRA applies to elections for federal office, States have extended its procedures to all elections.

SECTION 5 – MOTOR VEHICLE AGENCIES

3. What voter registration opportunity is required by Section 5 of the NVRA?

Each State motor vehicle driver’s license application (including any renewal application) submitted to a State motor vehicle authority must serve as a simultaneous voter registration application unless the applicant fails to sign the voter registration application. This application for voter registration must be considered as updating any previous voter registration by the applicant.

In addition, any change of address form submitted for State driver’s license purposes must also serve as notification of change of address for voter registration purposes unless the registrant states on the form that the change of address is not for voter registration purposes. This means that all changes of address submitted to State motor vehicle offices must be forwarded to election authorities unless the registrant affirmatively requests otherwise by opting out on the form.

4. Do the voter registration requirements of Section 5 of the NVRA apply to all license transactions with driver’s license offices?

Yes. The NVRA defines the term 'motor vehicle driver's license' to include "any personal identification document issued by a State motor vehicle authority." Hence, the NVRA voter registration opportunity applies to applications, renewals, and change of address transactions regarding any personal identification document issued by a State motor vehicle authority.

Moreover, to the extent that the State provides for remote applications for driver's licenses, driver's license renewals, or driver's license changes of address, via mail, telephone, or internet or other means, then provision must be made to include the required voter registration opportunity as well.

5. Does Section 5 of the NVRA mandate the use by States of any particular forms or procedures?

Yes. Each State must include a voter registration form as part of an application for a State driver's license and any application for driver's license renewal.

The voter registration portion of the application may not require any information that duplicates information required on the driver's license portion of the application and may require only the minimum amount of information necessary to prevent duplicate voter registrations and permit State officials both to determine the eligibility of the applicant to vote and to administer the voting process.

The voter registration application must state each voter eligibility requirement (including citizenship), contain an attestation that the applicant meets each requirement, state the penalties provided by law for submission of a false voter registration application and require the signature of the applicant under penalty of perjury. In addition, the application shall also include statements specifying that: 1) if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and 2) if an applicant does register to vote, the identity of the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

When a state contracts with a private entity to administer services in an agency that is required to offer voter registration, the ultimate responsibility for ensuring provision of voter registration services remains with the state, and the voter registration requirements under the NVRA remain the same.

6. What is a motor vehicle agency required to do with completed voter registration applications accepted at its offices?

Completed voter registration applications accepted at a motor vehicle agency must be transmitted to the appropriate State election official no later than ten days after acceptance. However, if an application is accepted at a motor vehicle agency within five days of a voter registration deadline for an election, the application must be transmitted to election officials no later than five days after acceptance. The agency providing voter-registration services may not require a registrant to mail in the form himself or herself or discourage him or her in any manner from submitting the form to the agency. Similarly, if it is agency practice to make sure that agency forms are completed and signed when submitted by an applicant, the same practice should apply to a voter registration application submitted by that applicant.

SECTION 6 – MAIL REGISTRATION

7. What are the requirements for voter registration by mail provided by Section 6 of the NVRA?

Section 6 of the NVRA requires each State to accept and use the federal mail voter registration application form developed by the U.S. Election Assistance Commission. This form is available on the EAC's web site at <http://www.eac.gov/program-areas/national-voter-registration-form>. In addition to containing a voter-registration application, this EAC application booklet describes certain state-specific requirements. The national form and booklet have been developed by the EAC in consultation with the States.

8. Can a State develop its own mail voter registration application?

Yes. Section 6 of the NVRA also provides that, in addition to accepting and using the federal mail application, a State may develop and use its own mail voter registration form, if it meets all of the same criteria the NVRA requires for the EAC's national mail voter registration application.

9. What are the requirements for the national mail voter registration application?

Section 9 of the NVRA provides that the national mail voter registration application may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.

The application also must include a statement that specifies each eligibility requirement (including citizenship), contain an attestation that the applicant meets each such requirement and require the signature of the applicant under penalty of perjury. The mail application must also include a statement of the penalties provided by law for submission of a false voter registration application.

The mail application must also include statements specifying that: 1) if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and 2) if an applicant does register to vote, the identity of the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes. The mail application may not include any requirement for notarization or other formal authentication.

Section 303(b) of the Help America Vote Act of 2002 (HAVA) also requires that the national mail application include certain additional information: First, the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. Second, the question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. Third, the statement, "If you checked 'no' in response to either of these questions, do not complete this form." Fourth, a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate identification required by HAVA must be submitted with the mail-in registration form to avoid the additional identification requirements upon voting for the first time. (See Question 11 below for a list of these forms of identification).

10. Does the NVRA require States to make mail voter registration applications available?

Yes. The chief election official of each State must make mail voter registration applications available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs. Most states satisfy these requirements by, among other things, making applications available at local registrar offices, driver license offices, public assistance offices and disability-service offices, to groups doing voter registration drives, and through the internet on the website of the chief election official. These forms are also available on the website of the U.S. Election Assistance Commission.

11. What requirements does federal law place on first-time voters who register to vote by mail?

If a person registers to vote by mail and has not previously voted in a federal election in a State, Section 303(b) of the Help America Vote Act of 2002 established new requirements.

Where a person registers to vote by mail and has not previously voted in a federal election in a State, if the voter does not qualify for one of the exemptions in Section 303(b)(3) of HAVA (described below), then he or she must submit one of the forms of identification required by Section 303(b)(2)(A) of HAVA the first time that he or she votes in a federal election. These forms of identification are: 1) a current and valid photo identification; or 2) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. If the voter does not present the required identification, Section 303(b)(2)(B) of HAVA provides that he or she may nonetheless cast a provisional ballot.

Sections 303(b)(3)(A)-(C) of HAVA create certain exemptions from these identification requirements. An applicant who provides the specified identification documents with his or her registration application (or otherwise provides such documentation to election officials before Election Day), is exempt from the requirement to show identification the first time he or she votes in a federal election. Likewise, an applicant who provides his or her driver's license number or last four digits of his or her social security number, and the State is able to match this information against an existing State record, is exempt from the requirement to show identification the first time he or she votes in a federal election. In addition, persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, or entitled to vote other than in person under the Voting Accessibility for the Elderly and Handicapped Act or other federal law, are exempt from HAVA's identification requirements.

SECTION 7 – VOTER REGISTRATION AGENCIES

12. Under Section 7 of the NVRA, which offices must offer voter-registration services?

Any office in a covered State that provides either public assistance or state-funded programs primarily engaged in providing services to persons with disabilities must offer voter-registration services. Armed Forces recruitment offices must also provide voter registration services. In addition, a State must designate other offices in the State as voter-registration agencies. (See Question 15 below for a description of these other offices).

13. What is an office that provides public assistance under Section 7?

“Public assistance” offices that must offer voter-registration services under Section 7 of the NVRA include each agency and office in a State that administers or provides services or assistance under

any public assistance programs. This includes any of the following federal public assistance programs: the Supplemental Nutrition Assistance Program (SNAP, formerly the Food-Stamp Program), the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the Temporary Assistance for Needy Families (TANF) program (formerly the Aid to Families with Dependent Children or AFDC program), the Medicaid program, and the State Children's Health Insurance Program (SCHIP). This also includes state public assistance programs.

14. What is an office that provides state-funded programs primarily engaged in providing services to persons with disabilities?

Offices that provide state-funded programs primarily engaged in providing services to persons with disabilities include offices providing vocational rehabilitation, transportation, job training, education counseling, rehabilitation, or independent-living services for persons with disabilities. Because States vary greatly in the manner in which they provide services to persons with disabilities, each State must identify the specific offices and agencies that fit this definition. In doing so, States may want to consult with offices that deal with issues related to persons with disabilities, such as the protection and advocacy offices and client assistance program offices within that State. A list of such offices for each State is available at: http://www.napas.org/aboutus/PA_CAP.htm. Section 7 also requires that if an office provides services to a person with disabilities at the person's home, the office must provide the opportunity to register to vote at home. Offices serving persons with disabilities often offer specialized assistance in completing the agency service or benefit application forms, and Section 7 requires such offices to offer voter registration applicants the same degree of assistance in completing voter registration forms as is offered in completing the agency's own application forms.

15. Does Section 7 require designation of other offices as voter registration agencies?

Yes. In addition to offices providing public assistance and services to persons with disabilities, States are also required by Section 7 to designate "other offices" within a State as voter-registration agencies. A State is free to determine which other agencies/offices should be designated, according to its needs and preferences, but it must make additional designations. Such other agency designations may include State or local government offices such as public libraries, public schools, State colleges, universities and community colleges, city and county clerks offices, marriage license offices, fishing and hunting license offices, government revenue offices, and unemployment compensation offices. Offices not otherwise covered under the NVRA that provide services to persons with disabilities may also be designated. In addition, with the agreement of such entities, States may designate as voter-registration agencies nongovernmental offices (such as private colleges) or Federal government offices.

16. Do armed forces recruitment offices have to provide voter-registration services?

Yes. The NVRA provides that all federal Armed Forces recruitment offices in each State subject to the NVRA must provide voter registration services. Within the Department of Defense, the Federal Voting Assistance Program (FVAP) maintains a web site that contains information concerning voter registration at Armed Forces recruitment offices: <http://www.fvap.gov/reference/laws/nat-vote-reg-act.html> and <http://www.fvap.gov/reference/milinfo.html>.

17. What voter-registration services must be made available?

Each office designated as a voter registration agency under Section 7 that provides service or assistance in addition to conducting voter registration must do the following:

- i. distribute voter-registration application forms;
- ii. provide an “information” form that contains information on the voter-registration process (see Question 21 below for a description of the “information” form);
- iii. provide the same level of assistance to all applicants in completing voter-registration application forms as is provided with respect to every other service or application for benefits (unless the applicant specifically refuses such assistance);
- iv. accept completed voter-registration forms from applicants; and
- v. transmit each completed voter-registration application to the appropriate State election official within a prescribed time frame.

18. What persons must be provided the opportunity to register to vote by Section 7 designated offices and agencies?

Designated agencies must provide the opportunity to register to vote to persons when: (1) applying for the agency’s assistance or services; (2) seeking recertification or renewal of those services; and (3) changing address for the assistance or services.

19. What does Section 7 require with regard to distribution of voter registration forms and information forms?

Each office designated under Section 7 that provides services or assistance must distribute to each applicant for services or assistance, and each applicant for recertification, renewal or change of address with respect to such services or assistance, one of the voter registration application forms described in Question 20 below. In addition, each such office also must distribute to each applicant a form, known as an information form, described in Question 21 below.

20. What types of voter-registration forms can be distributed to applicants?

Section 7 agencies must distribute one of the three voter-registration forms listed below:

- 0. National Mail Voter Registration Form — The agency may use this federal form, which has been developed by the U.S. Election Assistance Commission. This form is available on the EAC’s web site at <http://www.eac.gov/program-areas/national-voter-registration-form>. In addition to containing a voter-registration application, this document lists certain state-specific voting requirements.
- 1. State mail voter-registration form — The agency may use its State mail voter-registration form, so long as it meets the requirements of Section 9 of the NVRA. This State form would not be as lengthy as the federal form, which contains information about voter registration in each state. Such a form should be easier for applicants to navigate and easier for agencies and election officials to process.
- 2. Designated agency’s own form — The agency also may use its own version of a voter-registration form, if it is equivalent to the federal form and has been approved by the State. This type of form may lead to more efficient voter-registration transactions at designated agencies that provide services or assistance, since it could be made a seamless part of the forms normally used by the designated agency. As an example, where agency assistance/services forms are generated by computer during the process of interviewing the applicant, the voter-registration form likewise might be generated during this same process, pre-populated with information already provided by the applicant. Or a perforated voter-registration application might be attached at the bottom of a State services form, so that it can be easily completed, detached, and transmitted to the appropriate election official.

21. What is the “information form,” and what should States put on it?

Section 7 requires that designated offices provide each applicant for services or assistance an information form containing specific information concerning the individual’s opportunity to register to vote. This form, which may be part of or separate from the voter-registration form, must include the following information:

0. the question, “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”;
1. if the agency provides public assistance, the statement, “Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”;
2. boxes for the applicant to check to indicate whether the applicant would like to register to vote or declines to register to vote, together with the statement (in close proximity to the boxes and in prominent type), “IF YOU DO NOT CHECK EITHER YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.” (Failure to check either box is deemed a declination to register for purposes of receiving assistance in registration but is not deemed a written declination to receive an application);
3. the statement, “If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.”; and
4. the statement, “If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with _ _ _ _ .” The blank should be filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed.

No information relating to a declination to register to vote may be used for any purpose other than voter registration. If the information form is separate from the voter-registration form, it is recommended that a statement regarding this non-use of declination information be included on the voter-registration form, as well as a statement that if the applicant registers to vote, information submitted will be used only for voter-registration purposes.

22. Are Section 7 agencies required to assist persons in completing a voter-registration application?

Yes. Section 7 agencies must provide to each applicant the same degree of assistance in completing the voter-registration application form as is provided by the office in completing its own agency forms, unless the applicant declines to register to vote or declines such assistance.

As an example, if it is the practice of a Section 7 agency for its employees to take time to explain to each applicant the various forms involved in the agency application, recertification or other process and answer applicant questions before the applicant completes the forms, this type of assistance must also be given at that time to such applicants with regard to the voter registration application process. Similarly, if it is agency practice to make sure that agency forms are completed and signed when submitted by an applicant, the same practice should apply to a voter registration application submitted by that applicant.

Offices serving persons with disabilities often offer specialized assistance in completing the agency service or benefit application forms. Section 7 requires such offices to offer voter

registration applicants the same degree of assistance in completing voter registration forms as is offered in completing the agency's own application forms.

23. Does Section 7 put any restrictions on how office staff may interact with applicants?

Yes. Any person who provides voter-registration services at a Section 7 agency is prohibited from: 1) seeking to influence an applicant's political preference or party registration; 2) displaying any political preference or party allegiance; 3) taking any action or making any statement to an applicant to discourage the applicant from registering to vote; or 4) taking any action or making any statement that may lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

24. Do the voter registration requirements of Section 7 of the NVRA apply to all application, renewal, recertification and change of address transactions with designated offices?

Yes. The NVRA requires that voter registration opportunities be provided with respect to all application, renewal, recertification and change of address transactions regarding service and assistance with Section 7 offices. Many Section 7 designated agencies/offices routinely provide services/assistance such as application for, or renewal of, services or change-of-address notification through the internet, by telephone, or by mail. States should ensure the availability of voter-registration opportunities to individuals using such remote service/assistance opportunities from designated agencies. Thus, for all such internet transactions, States should advise of the opportunity to register to vote, and should provide some online capability to download or request a voter-registration form. For phone transactions, designated-agency personnel should advise applicants of the opportunity to register to vote and to request a voter registration form. Materials sent by mail to individuals completing phone or internet transactions (such as statements confirming a phone transaction, or renewal or change-of-address forms) should contain a voter-registration form.

In all such internet, phone, and mail transactions, individuals should be given a toll-free phone number, where possible, to call for information and instruction on how to complete the voter-registration process. Where feasible, as is done at many motor-vehicle agencies, States may consider providing for a simultaneous voter-registration opportunity through the electronic portal when individuals apply for services or assistance at a designated agency by that means. In addition, where possible, agencies may consider assisting the applicant in registering to vote by automatically filling in appropriate fields on voter-registration applications with information previously provided by the applicant in order to make the registration process easier and more efficient.

When upgrading technology related to the application/recertification/change of address process at Section 7 agencies, States should ensure that such upgrade includes the voter registration process.

When a state contracts with a private entity to administer services in an agency that is required to offer voter registration, the ultimate responsibility for ensuring provision of voter registration services remains with the state, and the voter registration requirements under the NVRA remain the same.

25. What is a Section 7 agency required to do with completed voter registration applications accepted at its offices?

The designated agency must submit the completed voter-registration application to the appropriate State or local election official within a prescribed period of time unless the applicant desires to submit it himself or herself. The agency providing voter-registration services may not require a registrant to mail in the form himself or herself or discourage him or her in any manner from submitting the form to the agency. When an applicant submits a completed voter-registration application to an agency, the agency must transmit the form to the appropriate State or local election official within ten days. However, if the agency receives a completed voter-registration application within five days before the last day to register to vote in an election, the application must be transmitted to the appropriate State or local election official within five days.

SECTION 8 – ADMINISTRATION OF VOTER REGISTRATION

26. What does Section 8 of the NVRA require States to do?

Section 8 mandates certain action by States concerning the administration of voter registration for elections for federal office. These requirements involve important issues such as the date by which valid voter registration applications must be accepted and eligible persons registered, rules for changing a registrant's address information, rules for removing names from the voter registration list, and administration of a uniform, nondiscriminatory voter registration list maintenance program that complies with the Voting Rights Act.

27. Does Section 8 impose a time deadline on States for accepting voter registration applications and registering eligible applicants?

Yes. States must set a voter registration cutoff for federal elections of no more than 30 days before the election. A valid voter registration application from an eligible applicant is considered timely and the State has to ensure that the applicant is registered to vote if it is: 1) submitted not later than the lesser of 30 days, or the period provided by State law, before the date of a federal election to a driver's license office, designated public assistance or disability office, other designated office, or an appropriate State or local election official, or 2) postmarked not later than the lesser of 30 days, or the period provided by State law, before a federal election when submitted by mail. **States can set a voter registration deadline for federal elections shorter than 30 days, and a number of States do so, but cannot set a longer deadline.**

28. Are States required to let an applicant know what has happened to his or her application?

Yes. Section 8 requires State election officials to notify each applicant of the disposition of his or her registration application, e.g., a voter registration card if the application is accepted or a notice of rejection if the application is not accepted.

Where a notice of disposition for a mail voter registration application is sent by by nonforwardable mail and returned as undeliverable, Section 6 of the NVRA provides that local election officials may proceed in accordance with the provisions of Section 8(d) of the NVRA (see Question 35 below).

29. Under the NVRA, what are the circumstances under which a State can remove a person's name from the voter registration rolls?

Section 8 permits States to remove the name of a person from the voter registration rolls upon the request of the registrant, and, if State law so provides, for mental incapacity or for criminal conviction. The Act also requires States to conduct a general voter registration list maintenance program that makes a reasonable effort to remove ineligible persons from the voter rolls by reason of the person's death, or a change in the residence of the registrant outside of the jurisdiction, in accordance with procedures set forth in the NVRA. The list maintenance program must be uniform, nondiscriminatory and in compliance with the Voting Rights Act.

30. Does the NVRA contain any prohibitions on removal of persons' names from the voter registration list?

Yes. Section 8 of the NVRA contains several restrictions on removals from the voter registration list. It prohibits removing registrants from the voter registration list solely because of the failure to vote. It also prohibits removing registrants from the registration list due to a change of address to another location within the same registrar's jurisdiction, even if the voter has failed to notify the registrar of the move within the jurisdiction. It also places restrictions of notice and timing on removals from the voter registration list when second-hand information is received, such as returned mail, which suggests a registrant may have moved outside of the registrar's jurisdiction.

31. What is "removal at the request of the registrant" under Section 8?

A "removal at the request of the registrant" under the NVRA involves first-hand information from a registrant that can originate in at least three ways: 1) an unsolicited direct request from the registrant to remove his or her name from the voting registration list, 2) a registrant completing and returning a confirmation card indicating an address change outside the jurisdiction, or 3) a registrant submitting a new application registering to vote a second time in a new jurisdiction, and providing information regarding the registrant's prior voter registration address on the new application, which the State can treat as a request to cancel or transfer his or her prior registration. A registrant advising of a new address within the same jurisdiction, or registering to vote a second time at a new address within the same jurisdiction, should trigger an updating of the original registration, rather than its cancellation.

32. Are there any required procedures in the NVRA concerning removal of a person's name from the voter registration rolls for mental incapacity, criminal conviction or death?

The NVRA does not require any particular process for removing persons who have been disqualified from voting pursuant to State law based upon a criminal conviction or an adjudication of mental incapacity. Moreover, while the NVRA requires States to make reasonable efforts to remove persons who have died, it does not require any particular process for doing so. States can follow whatever State law process exists for doing this. Section 303(a) of HAVA adds an additional requirement for NVRA covered States to coordinate the statewide voter registration database with State records on felony status and death. HAVA provides that list maintenance on the statewide database shall be done on a regular basis in accordance with the requirements of the NVRA.

In those States where state law provides for removals from the voter rolls based on mental incapacity or criminal conviction, state laws generally provide for election officials to rely on court determinations to identify the individuals who are subject to removal. Section 8 of the NVRA also provides for the U.S. Attorney Offices to forward information regarding felony criminal convictions in federal courts to chief state election officials.

33. Is there a “safe harbor” program for list maintenance which a State can implement to satisfy the NVRA’s requirements?

Yes. The NVRA gives one example of such a safe harbor program for list maintenance: a) the NVRA provides that a State may utilize change of address information supplied by the United States Postal Service through its National Change of Address program (NCOA) to identify registrants whose addresses may have changed; b) because this is second-hand information, not directly from the registrant, the NVRA prescribes a subsequent confirmation notice procedure that States must follow to verify possible address changes outside the jurisdiction generated from the NCOA program; and c) the NVRA specifies a subsequent waiting period after the confirmation notice is sent before a State can remove voters from the rolls for address changes outside the jurisdiction absent written confirmation from the voter. Other possible examples of a general list maintenance program could include States undertaking a uniform mailing of a voter registration card, sample ballot, or other election mailing to all voters in a jurisdiction, for which the State could use information obtained from returned non-deliverable mail as the basis for correcting voter registration records (for apparent moves within a jurisdiction) or for sending a forwardable confirmation notice and beginning the two federal general election waiting period before removal (for apparent moves outside a jurisdiction or non-deliverable mail with no forwarding address noted).

34. Under what circumstances does the NVRA allow States to remove the names of persons from the voting rolls based on change of residence?

A State can only remove the name of a person from the voter registration list on grounds of change of residence upon: 1) the voter’s written first-hand confirmation of a change of address to a location outside of the registrar’s jurisdiction, **or** 2) reliable second-hand information indicating a change of address outside of the jurisdiction from a source such as the NCOA program, or a general mailing to all voters, **plus** the subsequent failure of the person to respond to a specific forwardable confirmation mailing sent by the State **and** the failure of the person to vote or appear to vote during the period ending on the day after the second federal general election subsequent to the confirmation notice being sent.

35. What is the NVRA confirmation mailing/notice process to which States must adhere to verify a registrant’s change of residence?

Where a State that has obtained reliable information indicating a possible change of residence for a registrant through the NCOA program (or another uniform list maintenance program like a general mailing to all registrants), it must take certain steps to confirm such address change since it is second-hand information not coming directly from the registrant. These steps differ depending on whether the apparent change of address is inside or outside a registrar’s jurisdiction:

0. In the case of a person who appears to have moved to a new address **inside** the same registrar’s jurisdiction, the registrar shall not remove the voter’s name from the list, but must update the registration records to show the new address and send a forwardable mail notice of the address change to the registrant along with a prepaid pre-addressed return form for the registrant to verify or correct the residence information. If such person fails to return this form, however, the registrant cannot be removed from the voter rolls by reason of this apparent change of residence within the jurisdiction and should not be designated as inactive;
1. In the case of a person who appears to have moved to a new address **outside** the registrar’s jurisdiction, the registrar must initiate an address confirmation procedure before removing the voter. This entails sending a forwardable notice, in the form of a

postage-prepaid and pre-addressed return card, on which the registrant may state his or her current address. The notice must track the specific language in Section 8(d)(2) of the NVRA, i.e., it must advise that if the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the voter registration deadline, and that if the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters. The jurisdiction may designate the registrant as inactive if the registrant fails to return the confirmation notice by the voter registration deadline for the next election after the confirmation notice is sent. If the registrant subsequently provides written confirmation of a change of address to outside of the jurisdiction, the registrant can be immediately removed from the rolls. If the registrant has not moved outside the jurisdiction and subsequently votes or appears to vote in an election before the second general election for Federal office after the confirmation notice is sent, the registrant should be restored to active status.

36. If this confirmation notice card is not returned within the specified time, can the State then remove the voter from the registration rolls for an apparent address change?

No. A voter can be removed from the voter rolls for an apparent address change **only** if he or she has not responded to the confirmation notice sent by forwardable mail with a postage prepaid and pre-addressed return card, **and** if she or she has not voted or appeared to vote in an election beginning on the date the notice is sent and ending on the day after the date of the second federal general election after the date of the confirmation notice.

37. Does Section 8 impose any time restrictions on States as to when a general list maintenance program can be conducted?

Yes. Section 8 requires States to **complete** any program the purpose of which is to systematically remove the names of ineligible voters from the official list of eligible voters not later than **90 days** prior to the date of a primary election or general election for federal office. This 90 day deadline applies to state list maintenance verification activities such as general mailings and door to door canvasses. This 90 day deadline does not, however, preclude removal of names at the request of the registrant, removal due to death of the registrant, removal due to criminal conviction or mental incapacity of the registrant as provided by State law, nor does the deadline preclude correction of a registrant's information.

38. Are there any protections in the NVRA for those eligible registered voters who have changed address to another location within a registrar's jurisdiction, or are otherwise on an inactive voter list, but have not notified the registrar prior to the date of a federal election?

Yes. The NVRA contains fail-safe provisions to enable such persons who show up to vote on a federal election day to update their registration and to vote in that election even though they have not notified the registrar of the address change:

0. An eligible registered voter who has moved to an address in an area covered by the same polling place as his or her previous address is permitted to vote at that same polling place upon oral or written affirmation by the registrant of the change of address at the polling place;

1. An eligible registered voter who has moved to an address in an area covered by a different polling place from the polling place for his or her previous address, **but within the same registrar’s jurisdiction and the same congressional district**, at the option of the registrant:
 - a. shall be permitted to correct the voting records and vote at the old polling place upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or
 - b. shall be permitted to correct the voting records and vote at a designated central location within the same registrar’s jurisdiction, upon written affirmation by the registrant of the new address on a standard form provided by the registrar; or
 - c. shall be permitted to correct the voting records for purposes of future elections at the new polling place, and shall be permitted vote in the current election at that polling place if allowed under State law, upon confirmation by the registrant of the new address by such means as are required by law.

A central voting location need not be made available by the registrar if State law allows the person to vote at either the old or new polling place in the current election upon oral or written affirmation of the address change.

The failsafe provisions of Section 8 draw a distinction between the registrant’s need for “affirmation” or “confirmation” of a new address, depending upon the circumstances in which the failsafe voting occurs.

39. What if a mistake has been made, and registration records indicate that a person has moved from an address covered by a polling place when that person has in fact not moved?

If a person has not moved, but the registration records indicate that a person has moved from an address covered by a polling place, that person shall be permitted to vote at that polling place upon oral or written affirmation by the registrant that the registrant continues to reside at his or her address previously known to the registrar.

40. Are States required to keep records of their voter registration activities under the NVRA?

Yes. Section 8 of the NVRA requires that States keep and make available for public inspection, for a period of at least two years, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered. The records to be kept shall include lists of the names and addresses of all persons to whom confirmation notices are sent, and information concerning whether or not each such person has responded to the notice, as of the date that inspection of the records is made.

In addition, an independent requirement in 42 U.S.C. 1974 mandates that all records and papers relating to any application, registration, or other act requisite to voting in any election for federal office, be preserved for a period of twenty-two months from that federal election. Since voter registration is unitary and permanent, this obligation is ongoing, such that registration records must be preserved as long as the voter registration to which they pertain is considered an “active” one under local law and practice, and those records cannot be disposed of until the expiration of twenty-two months following the date on which the registration ceased to be “active.” Hence, States should maintain all written records related to applications to register to vote as well as

declinations to register to vote. The Department of Justice can require that such records be produced for inspection and copying through a written demand, and a lawsuit to enforce such demand.

COORDINATION, REPORTING, AND ENFORCEMENT

41. What are the State's obligations to coordinate voter registration activities?

The State is responsible for ensuring compliance with the NVRA. The NVRA requires each State to designate a State officer or employee as the chief State election official to be responsible for coordinating State responsibilities under the Act. Because of the importance of monitoring compliance with the NVRA's voter registration requirements, States should consider employing a person at the State level to serve as the NVRA coordinator for the State. This person could be responsible for coordinating and overseeing all NVRA activity at designated voter-registration agencies/offices in the State. In addition, States may consider employing a person at each designated voter-registration agency, and at each designated agency office, whose ongoing responsibility would be coordinating and overseeing the conduct of all voter registration activities in that agency/office. This person's responsibilities could include ensuring that the voter registration responsibilities are carried out, ensuring that the voter registration system is administered in a uniform and non-discriminatory manner, reviewing monthly data of voter-registration activity at voter registration offices, monitoring voter-registration activities, training new employees and providing for training updates at periodic intervals, ensuring an adequate supply of forms, and resolving voter-registration coordination issues that arise between State and local officials.

42. Are States required to report on their NVRA voter-registration and list maintenance efforts?

Yes. States must report various voter registration information to the U.S. Election Assistance Commission (EAC), in response to the EAC survey, every two years. This includes the number of voter-registration applications by mail and from motor vehicle offices, public-assistance offices, offices providing state-funded programs primarily serving persons with disabilities, Armed Forces recruitment offices, and other state-designated offices and agencies. Likewise, States must report voter registration list maintenance information in response to the EAC survey every two years.

These biennial NVRA reports are available on the EAC web site at the following link:
<http://www.eac.gov/program-areas/research-resources-and-reports/completed-research-and-reports/national-voter-registration-act-studies>.

States should ensure that the NVRA data provided to the EAC is complete and accurate. The Department of Justice carefully considers this data, among other information, in determining how it will carry out its enforcement responsibilities.

To facilitate accurate NVRA data reporting to the EAC, states should consider having a system in place to track the number of voter registration applications from each designated voter registration agency. Barcodes or other coding could be included on voter registration applications to designate the agency from which the form originated. Such coding can be implemented in such a way that also allows states to comply with the obligation not to disclose the office at which any particular individual has registered to vote.

43. For jurisdictions covered by the language minority provisions of the Voting Rights Act, what obligations do such jurisdictions have to ensure voter registration access under the NVRA to covered limited-English proficient citizens?

Certain States and local jurisdictions are covered by the language minority requirements of the Voting Rights Act (VRA) for specific language minority groups. The VRA requires that when covered states and jurisdictions provide voter registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, they must provide them in the language of the applicable minority group as well as in the English language. The NVRA provides that its requirements do not supersede, restrict, or limit the application of the requirements of the VRA. Thus, each State or jurisdiction covered by the language minority requirements of the VRA should consider how to ensure that NVRA voter registration opportunities are conducted so as to provide language access to covered limited-English proficient language minority citizens so that they have equal access to the voter registration process.

To assist covered States and jurisdictions, extensive information regarding the language minority requirements is available on the Voting Section's website: http://www.justice.gov/crt/voting/sec_203/activ_203.php. Various language resources are also available on the EAC website. These include versions of the national mail voter registration form translated into Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese. [http://www.eac.gov/voter/Register to Vote](http://www.eac.gov/voter/Register%20to%20Vote). These resources also include translated versions of a voter's guide to federal elections. <http://www.eac.gov/voter/voters-guides>. And these resources also include a glossary of election terms in six languages. <http://www.eac.gov/voter/language-accessibility-program-1>.

44. What agency is responsible for enforcement of the NVRA?

The U.S. Department of Justice has enforcement responsibility under the NVRA. The Department undertakes activities designed to ensure compliance with the NVRA, including monitoring state compliance, conducting investigations and, filing litigation in federal court to enforce the NVRA's requirements. Private parties may also bring litigation in federal court to enforce the NVRA. The U.S. Election Assistance Commission is responsible for administration of the national voter registration form, as well as State reporting under the NVRA.

45. What are some examples of the Department's activities to enforce the provisions of the NVRA?

An extensive description of the Department's NVRA enforcement activities can be found on the Voting Section's website: http://www.justice.gov/crt/voting/litigation/caselist.php#nvra_cases.

In particular, significant NVRA decisions or settlements have been obtained by the Department in litigation with the State of Tennessee (Sections 5 and 7 of the NVRA) http://www.justice.gov/crt/voting/nvra/tn_cd.pdf; Cibola County, New Mexico (Section 8 of the NVRA), http://www.justice.gov/crt/voting/sec_203/documents/cibola_stip_3.pdf; and the State of New York (Section 7 of the NVRA), http://www.justice.gov/crt/voting/nvra/nynvra_order.pdf.

46. How can I contact the Department of Justice about the NVRA's voter registration requirements?

As a general matter, the Department of Justice does not issue advisory opinions concerning the statutes that it enforces. The Department will certainly consider inquiries from State officials concerning the NVRA, however, in the hope of providing assistance. Within the Department of Justice, the responsibility for NVRA enforcement is committed to the Voting Section of the Civil Rights Division. You may reach the Voting Section at its toll-free telephone number, 800-253-3931.

**GENERAL INFORMATION
CIVIL RIGHTS DIVISION
VOTING SECTION**

CONTACT

You may contact the Voting Section at Voting.Section@usdoj.gov for general information concerning the Section's activities or to make a complaint concerning a voting matter. You may also use this address to request Voting Section records under the Freedom of Information Act. If you are making such a request, the phrase "Records request" should appear in the subject line.

If you are an official from a submitting authority, please [click here](#).

You may use email if you want to provide your views on a submission that is being reviewed. Please [click here](#) to learn more.

If you are an official from a submitting authority and need to **supplement** your initial submission, please [click here](#).

For additional information, you may call 1-800-253-3931.

MAILING ADDRESS

All mail to the Voting Section must have the full address listed below:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530

Deliveries by overnight express service such as Airborne, DHL, Federal Express or UPS should be addressed to:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G St., N.W.
Washington, DC 20006