

From: [Smith, Eleanor H.](#)
To: ['ddavidson@eac.gov'](mailto:ddavidson@eac.gov); ['votingsystemguidelines@eac.gov'](mailto:votingsystemguidelines@eac.gov); ['slitton@eac.gov'](mailto:slitton@eac.gov)
Subject: Public Comment Period for Federal Voting System Certification Requirements Proposed by the EAC on March 31, 2010
Date: 04/15/2010 01:40 PM
Attachments: 2010-04-15 Signed letter to Election Assistance Commission from Eleanor Smith.PDF
2010-04-15 Signed letter to Election Assistance Commission from Eleanor Smith.PDF

Dear Election Assistance Commissioners:

Attached is a letter to you concerning public comment on requirements proposed by the Election Assistance Commission for federal certification of voting systems for use by U.S. uniformed and overseas citizens to vote in the 2010 elections.

Sincerely,

Eleanor H. Smith



Eleanor Smith
esmith@zuckerman.com

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ZUCKERMAN SPAEDER LLP

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(202) 778-1838
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1800 M Street NW Ste 1000
Washington, D.C. 20036
(202) 822-8106 (facsimile)

April 15, 2010

VIA E-MAIL (votingsystemguidelines@eac.gov)
and (ddavidson@eac.gov) & HAND DELIVERY

U.S. Election Assistance Commission
c/o Donetta Davidson, Chair
1201 New York Avenue, NW, Ste 300
Washington, D.C. 20005

Re: EAC Violation of the Administrative Procedure Act Regarding Proposed Requirements for Federal Certification of Voting Systems for U.S. Uniformed and Overseas Citizens to Vote in the 2010 Election

Dear Commissioners:

This letter responds to denial by the Election Assistance Commission of a request I made April 13, 2010 on behalf of Voter Action, and others who may join its comments, for an extension of time to comment on recently published proposed requirements. These EAC requirements would govern federal certification of voting systems to be used by United States citizens in the uniformed services or located overseas, to vote in the 2010 elections for the U.S. Senate, the U.S. House of Representatives, and state and local elected offices. A copy of the denial letter is attached at Tab A.

Voter Action is a national non-profit organization that seeks to ensure election integrity in the United States. Voter Action aims to protect an open and transparent election process, one in which our elections at the federal, state, and local level are accessible and verifiable. Voter Action supports the basic civil and political rights of all voters to cast their ballots in an independent manner and to have to their votes accurately recorded and counted.

As you are aware, the EAC published a "Request for Substantive Comments on the EAC's Proposed Requirements for the Testing of Pilot Voting Systems To Serve UOCAVA Voters" in the *Federal Register* on March 31, 2010, setting a deadline for public comments of "before 4 p.m. EST on April 15, 2010." See 61 Fed. Reg. 16088-90 (Mar. 31, 2010) (attached at Tab B). In addition, the EAC has published a "Request for Substantive Comments on the EAC's Procedural Manual for the Election Assistance Commission's Pilot Voting System Testing and Certification Program Manual" in the *Federal Register* on April 9, 2010, setting a deadline for public comments of "before 5 p.m.



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EDT on April 26, 2010.” See 61 Fed. Reg. 18189 (Apr. 9, 2010) (Attached at Tab C). These notices erroneously disavow the notice and comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. § 551 *et seq.*, and provide a mere 15 days for “substantive comments” regarding requirements that would impact the substantive rights of eligible U.S. voters to vote and have their vote counted as cast.

Fifteen days notice simply is not adequate to permit the public to comment on the proposed requirements and implementing manual to govern voting systems to be used by U.S. citizens in uniform or living abroad to vote on voting systems involving the internet – something that would be sanctioned by the EAC for the first time. Executive Order 12866, which helps to implement the APA, provides that “each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a ***comment period of not less than 60 days.***” Exec. Order No. 12866, § 6(a)(1) (Sep. 30, 1993) (emphases added) (Attached at Tab D). One of the stated objectives of Executive Order 12866 is “to make the [regulatory] process more accessible and open to the public.” Regrettably the EAC’s notice, allowing only one-fourth of the 60 day time period established by Executive Order 12866, accomplishes precisely the opposite. Indeed, the short time period set by the EAC to comment on the proposed internet voting system requirements and manual ensures that few persons will be aware of the comment period, much less have time to prepare and submit comments before the comment period ends. If anything, one would expect the EAC to provide *more* than 60 days notice to accommodate the comments of those concerned about whether these proposed requirements and related manual protect each person’s vote and the likelihood of a lag time in notification to those living abroad, including the brave men and women in our Armed Forces who are busy fighting wars on foreign soil on our behalf.

There are facts that make the notice period selected by the EAC even more troublesome. April 15, 2010 is the day before computer scientists who specialize in trustworthy elections have to submit their work product for the 2010 Electronic Voting Technology Workshop/Workshop on Trustworthy Election (EVT/WOTE ’10). A copy of a webpage regarding this electronic voting technology workshop is attached at Tab E. April 15, 2010, also is the date by which income tax returns in the United States must be filed. This is a time when people are acutely distracted by other demands, making them much less likely to focus on what the EAC is doing. Moreover, the denial by the EAC of an extension of time to comment purports to preclude the acceptance of comments on the voting system testing and certification requirements after April 15, 2010, even though the comment period for the related voting system testing and certification manual remains open for another 11 days, until April 26, 2010.

The EAC is requested to notify the public within the next week that it is extending for at least 45 more days beyond April 26, 2010, the period of comment upon the proposed requirements (and



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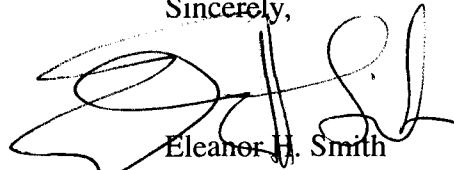
U.S. Election Assistance Commission

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related manual) for federal certification of voting systems for use by uniformed and overseas voters to vote in the 2010 U.S. election.

Sincerely,



Eleanor H. Smith

Enclosures

cc: Gracia Hillman, Commissioner
Gineen Bresso Beach, Commissioner
Thomas R. Wilkey, Executive Director
Juliet E. Thompson, General Counsel
Sarah Litton, Deputy Director of Communications (Email- slitton@eac.gov and U.S. Mail)
John C. Bonifaz, Voter Action, Legal Director (Email- jbonifaz@voteraction.org and U.S. Mail)

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Smith, Eleanor H.

From: slitton@eac.gov
Sent: Wednesday, April 14, 2010 8:54 AM
To: Smith, Eleanor H.
Subject: EAC Comment Period

Ms. Smith,

Please submit any comments about the UOCAVA Pilot Program Testing Requirements by the stated deadline of April 15. The timeline for the pilot program, including the comment periods, was established to reach a goal of having a set of testable requirements for pilot systems to possibly be used by jurisdictions in the 2010 general election. As a reminder, the Pilot Program Testing Requirements will only be used for pilot projects during the 2010 election cycle. We will be holding a comment period for at least 90 days for the next iteration of the VVSG later this year, and hope you will also be able to share your comments during that process.

Sarah Litton
Deputy Director of Communications
U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
www.eac.gov
(202) 566-3100

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project, we will consider the extent to which the applicant has identified specific gaps and weaknesses in the preparation of all students for postsecondary education and careers without need for remediation, the nature and magnitude of those gaps and weaknesses, and the extent to which the proposed project will address those gaps and weaknesses effectively.

Final Priorities, Requirements, Definition, and Selection Criteria

We will announce the final priorities, requirements, definition, and selection criteria in a notice in the *Federal Register*. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, and selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these priorities, requirements, definition, and selection criteria, we invite applications through a notice in the *Federal Register*.

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priorities, requirements, definition, and selection criteria justify the costs.

We have determined, also, that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Discussion of Costs and Benefits: Elsewhere in this notice we discuss the potential costs and benefits, both quantitative and qualitative, of the proposed priorities, requirements, definition, and selection criteria under the background sections to the Priorities, Requirements, Definition, and Selection Criteria.

Paperwork Reduction Act of 1995 (PRA)

Certain sections of the proposed priorities, requirements, definition, and selection criteria for the SLC grant program contain changes to information collection requirements already approved by the Office of Management and Budget (OMB) under OMB control number 1810-0676 (1890-0001). We will be publishing a separate notice in the *Federal Register* requesting comments on these changes.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the *Federal Register*. Free Internet access to the official edition of the *Federal Register* and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: March 26, 2010.

Thelma Meléndez de Santa Ana,
Assistant Secretary for Elementary and
Secondary Education.

[FR Doc. 2010-7255 Filed 3-30-10; 8:45 am]

BILLING CODE 4000-01-P

ELECTION ASSISTANCE COMMISSION

Proposed Information Quality Guidelines Policy

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice and request for public comment on Proposed Information Quality Guidelines Policy.

SUMMARY: The U.S. Election Assistance Commission (EAC) seeks public comment on the Proposed Information Quality Guidelines policy. The policy outlines the EAC's directives and required procedures to implement the OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 FR 8452 ("OMB Guidelines"). The EAC developed the Proposed Information Quality Guidelines to meet its obligations under the OMB Guidelines and to codify its high standards of quality in the production of information disseminated outside the agency.

DATES: Written comments must be submitted on or before 4 p.m. EDT on April 30, 2010.

Comments: Public comments are invited on the information contained in the policy. Comments on the proposed policy should be submitted electronically to HAVAinfo@eac.gov. Written comments on the proposed policy can also be sent to the U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Information Quality Guidelines Policy.

Obtaining a Copy of the Policy: To obtain a free copy of the policy: (1) Access the EAC Website at <http://www.eac.gov>; (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Information Quality Guidelines.

FOR FURTHER INFORMATION CONTACT: Ms. Tamar Nedzar, Ms. Karen Lynn-Dyson or Ms. Shelly Anderson at (202) 566-3100.

Thomas R. Wilkey,
Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2010-7134 Filed 3-30-10; 8:45 am]

BILLING CODE 5820-KF-P

ELECTION ASSISTANCE COMMISSION

Notice: Request for Substantive Comments on the EAC's Proposed Requirements for the Testing of Pilot Voting Systems To Serve UOCAVA Voters

AGENCY: United States Election Assistance Commission.

ACTION: Request for public comment on proposed requirements for the testing of

pilot voting systems to be used to serve UOCAVA voters.

SUMMARY: The U.S. Election Assistance Commission (EAC) is publishing for public comment a set of proposed requirements for the testing of pilot voting systems to be used by jurisdictions to serve Uniformed and Overseas voters.

SUPPLEMENTARY INFORMATION:

Background: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 protects the right to vote in Federal elections for this defined category of citizens. UOCAVA sets out federal and state responsibilities to assist these voters in exercising their voting rights. The Secretary of Defense is the presidential designee responsible for the Federal functions of the Act. The Federal Voting Assistance Program (FVAP) administers this law on behalf of the Secretary of Defense and works cooperatively with other Federal agencies and state and local election officials to carry out its provisions.

UOCAVA legislation was enacted before the advent of today's global electronic communications technology. Consequently it relied on U.S. domestic and military mail systems as well as foreign postal systems for the worldwide distribution of election materials. By the mid-1990s it became apparent that the mail transit time and unreliable delivery posed significant barriers for many UOCAVA citizens, preventing them from successfully exercising their right to vote. At the same time the Internet was being widely adopted by businesses, governments and the general public. Therefore it was a natural development for FVAP and states to consider the potential of the Internet as an alternative to the "by-mail" UOCAVA process.

FVAP sponsored Voting Over the Internet (VOI), a small pilot project for the November 2000 general election, to examine the feasibility of using Internet technology. Four states participated in this experiment, which enabled voters to use their own personal computers to securely register to vote, request and receive absentee ballots, and return their voted ballots. Following the successful completion of the VOI project, in the Fiscal Year 2002 National Defense Authorization Act (section 1604 of Pub. L. 107-107; 115 Stat. 1277), Congress instructed the Secretary of Defense to carry out a larger demonstration project for the November 2002 general election. This project was to be "carried out with participation of sufficient numbers of absent uniformed services voters so that the results are statistically significant".

Since there was not sufficient time to define and implement a large project for 2002, the project was planned for implementation for the November 2004 election. Seven states agreed to participate and worked with FVAP to develop system requirements and operating procedures. However, the Secure Electronic Registration and Voting Experiment (SERVE) was cancelled before it was deployed due to concerns raised by several computer scientists. These individuals contended that the use of personal computers over the Internet could not be made secure enough for voting and consequently called for the project to be terminated. The Department of Defense, citing a lack of public confidence in the SERVE system, decided the project could not continue under these circumstances.

In response to this development, the Fiscal Year 2005 National Defense Authorization Act (section 567 of Pub. L. 108-375; 118 Stat. 119) repealed the requirement for the Secretary of Defense to conduct an electronic voting demonstration project "until the first regularly scheduled general election for federal office which occurs after the Election Assistance Commission (EAC) notifies the Secretary that the Commission has established electronic absentee voting guidelines and certifies that it will assist the Secretary in carrying out the project". Pursuant to this legislation, in September 2005, the EAC requested its voting system advisory group, the Technical Guidelines Development Committee (TGDC), to add this subject on their research agenda; however the request was declined.

Since that time legislation dealing with a number of UOCAVA voting issues were under consideration by Congress. Ultimately, passed as part of the Fiscal Year 2010 National Defense Authorization Act (NDAA) (section 581 of Pub. L. 111-84), the Military and Overseas Voters Empowerment Act contains a provision allowing the Secretary of Defense to establish one or more pilot programs to test the feasibility of new election technology for UOCAVA voters. This provision requires the EAC and the National Institute of Standards and Technology (NIST) to provide best practices or standards to support these pilot programs, "in accordance with electronic absentee voting guidelines established under" the earlier FY2005 NDAA. In December 2009, the EAC directed the TGDC to begin this work as a top research priority. The EAC expects this work to result in the comprehensive set of remote electronic voting system guidelines as mandated by the FY2005

NDAA. The TGDC has been tasked to consider the full range of remote voting architectures, including instances where the voter can use his own personal computer for voting. The pilot testing requirements, that the EAC is currently developing, will be provided to the TGDC as the basis and starting point for their research and deliberations.

Project Summary: Since 2008, several states have enacted legislation enabling them to conduct electronic voting projects for UOCAVA voters, beginning with the 2010 elections. To be prepared to support the states with these projects, in July 2009 the EAC convened a UOCAVA Working Group to consider how to adapt the EAC's Testing and Certification Program to accommodate UOCAVA pilot systems. It was concluded that two products were needed: (1) A modified set of system testing requirements; and (2) a revised testing and certification process. It was determined that a working group would assist the EAC in drafting the testing requirements and EAC staff would adapt the certification process to accommodate the UOCAVA pilot program.

The EAC UOCAVA Working Group has taken much the same approach as the state pilot project working groups. The source materials drawn on for this effort included: the Voluntary Voting System Guidelines (VVSG) 1.0; the VVSG 1.1; the VVSG 2.0; the VOI, SERVE; FIPS; and NIST Special Publications. One significant difference in the EAC Working Group approach was the technology scope covered by the requirements. The VOI, SERVE and Okaloosa system requirements were tailored specifically for the particular system implementations developed for those projects. However, since many different types of remote voting systems could be submitted to the EAC certification program, the EAC Working Group defined generic system requirements to provide for system design flexibility.

Pilot projects are small in scale and short in duration. Consequently, certification for pilot systems needs to be quicker and less expensive than the regular process currently used for conventional systems with an expected life of more than 10 years. Nevertheless, since actual votes will be cast using the voting systems utilized in the pilot project, the certification process must retain sufficient rigor to provide reasonable assurance that the pilot systems will operate correctly and securely.

There is a fundamental dichotomy in complexity in remote voting architectures: those where the voting

platform is controlled (e.g., provided by the election jurisdiction); and those where it is not controlled (e.g., the voter uses his own personal computer). Since the EAC plans to have the pilot certification process ready for implementation during the first half of 2010, it was decided that the EAC would focus its efforts on controlled platform architectures servicing multiple jurisdictions. This is a highly secure remote voting solution and the Okaloosa Project provides an implementation example for reference. Defining requirements for this class of system architecture was determined to provide a reasonable test case that could be completed within the available timeframe. In addition, most of the core system processing functions are the same for both types of architectures, so a substantial number of requirements will carry over as this work is expanded to include other methods of remote electronic voting.

The UOCAVA Pilot requirements document contains testable requirements for the following areas:

- (1) Functional Requirements.
- (2) Usability.
- (3) Software.
- (4) Security.
- (5) Quality Assurance.
- (6) Configuration Management.
- (7) Technical Data Package.
- (8) Systems Users Manual.

DATES: Comments must be received on or before 4 p.m. EST on April 15, 2010.

Submission of Comments: The public may submit comments through one of the two different methods provided by the EAC: (1) e-mail submissions to votingsystemguidelines@eac.gov; (2) by mail to Voluntary Voting System Guidelines Comments, U.S. Election Assistance Commission, 1201 New York Ave., NW., Suite 300, Washington, DC 20005.

In order to allow efficient and effective review of comments the EAC requests that:

- (1) Comments refer to the specific section that is the subject of the comment.
- (2) General comments regarding the entire document or comments that refer to more than one section be made as specifically as possible so that EAC can clearly understand to which portion(s) of the documents the comment refers.
- (3) To the extent that a comment suggests a change in the wording of a requirement or section of the guidelines, please provide proposed language for the suggested change.

All comments submitted will be published at the end of the comment period on the EAC's Web site at

<http://www.eac.gov>. This publication and request for comment is not required under the rulemaking, adjudicative, or licensing provisions of the Administrative Procedures Act (APA). It is a voluntary effort by the EAC to gather input from the public on the EAC's administrative procedures for certifying voting systems to be used in pilot projects. Furthermore, this request by the EAC for public comment is not intended to make any of the APA's rulemaking provisions applicable to development of this or future EAC procedural programs.

An electronic copy of the proposed guidance may be found on the EAC's Web site at <http://www.eac.gov>.

FOR FURTHER INFORMATION CONTACT: Matthew Masterson, Phone (202) 566-3100, e-mail votingsystemguidelines@eac.gov.

Alice Miller,
Chief Operating Officer, U.S. Election Assistance Commission.

[FR Doc. 2010-7199 Filed 3-30-10; 8:45 am]

BILLING CODE 6820-KF-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11910-004]

Symbiotics, LLC; AG Hydro, LLC; Notice of Application for Transfer of License, and Soliciting Comments and Motions To Intervene

March 24, 2010.

On March 8, 2010, Symbiotics, LLC (transferor) and AG Hydro, LLC (transferee) filed an application for transfer of license of the Applegate Dam Project, located on the Applegate River in Jackson County, Oregon.

Applicants seek Commission approval to transfer the license for the Applegate Dam from the transferor to the transferee.

Applicant Contact: For both the transferor and transferee is Mr. Brent Smith, 4110 East 300 North, P.O. Box 535, Rigby, ID 83442, phone (208) 745-0834.

FERC Contact: Robert Bell, (202) 502-6062.

Deadline for filing comments and motions to intervene: 30 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii)(2008) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an

original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the eLibrary link of the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-11910-004) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,
Secretary.

[FR Doc. 2010-7143 Filed 3-30-10; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494-384]

Grand River Dam Authority; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. **Application Type:** Non-project use of project lands and waters.

b. **Project No:** 1494-384.

c. **Date Filed:** March 11, 2010, supplemented on March 17, 2010.

d. **Applicant:** Grand River Dam Authority.

e. **Name of Project:** Pensacola Project.

f. **Location:** The proposed non-project use is located on Grand Lake O' the Cherokees in Delaware County, Oklahoma.

g. **Filed Pursuant to:** Federal Power Act, 16 U.S.C. 791a-825r.

h. **Applicant Contact:** Ms. Tamara E. Jahnke, Assistant General Council, Grand Dam River Authority, P.O. Box 409, Vinita, Oklahoma 74301, (918) 256-5545.

i. **FERC Contact:** Any questions on this notice should be addressed to Shana High at (202) 502-8674.

j. **Deadline for filing comments, motions to intervene, and protest:** April 26, 2010.

Comments, Motions to Intervene, and Protests may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions

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text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the *Federal Register*. Free Internet access to the official edition of the *Federal Register* and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: April 6, 2010.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2010-8166 Filed 4-8-10; 8:45 am]

BILLING CODE 4000-01-P

ELECTION ASSISTANCE COMMISSION

Notice: Request for Substantive Comments on the EAC's Procedural Manual for the Election Assistance Commission's Pilot Voting System Testing and Certification Program Manual

AGENCY: United States Election Assistance Commission (EAC).

ACTION: Notice; Request for Substantive Comments.

SUMMARY: The U.S. Election Assistance Commission (EAC) is publishing a procedural manual for its Pilot Voting System Testing and Certification Program Manual for a fifteen day public comment period. This program sets the administrative procedures for manufacturers seeking certification of pilot voting systems to be used in a federal election.

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Director, Voting System Certification, Washington, DC (202) 566-3100, Fax: (202) 566-1392.

SUPPLEMENTARY INFORMATION:

Background. HAVA requires that the EAC certify and decertify voting systems through testing conducted by accredited laboratories. Section 231(a)(1) of HAVA (42 U.S.C. 15371) specifically requires the EAC to " * * * provide for the testing, certification, decertification and recertification of voting system hardware and software by accredited laboratories." To meet this obligation, the EAC has created a voluntary program to test pilot voting systems to a set of voluntary pilot certification requirements. The Pilot Testing Certification Program manual sets the procedures for the pilot voting system manufacturers to follow in order to receive certification for their system to

be used in a pilot project for a state or local jurisdiction that require EAC certification.

The Pilot Voting System Testing and Certification program manual contains program requirements and procedures for the following areas:

1. Voting system manufacturer registration.
2. When voting system intended for use in a pilot must be submitted for certification.
3. Certification Testing, Technical Review and Grant of Certification for Pilot Voting Systems.
4. Denial of Certification.
5. Pilot Program Monitoring and Reporting.
6. Requests for Interpretations.
7. Release of Certification Program Information.

Substantive Comments: The EAC seeks substantive comments from the public on its proposed procedural manual. Please submit comments consistent with the information below. Comments should identify and cite the section of the manual at issue. Where a substantive issue is raised, please propose a recommended change or alternative policy. All comments submitted will be published at the end of the comment period on the EAC's Web site at <http://www.eac.gov>. This publication and request for comment is not required under the rulemaking, adjudicative, or licensing provisions of the Administrative Procedures Act (APA). It is a voluntary effort by the EAC to gather input from the public on the EAC's administrative procedures for certifying voting systems to be used in pilot projects. Furthermore, this request by the EAC for public comment is not intended to make any of the APA's rulemaking provisions applicable to development of this or future EAC procedural programs. However, in accordance with the Paperwork Reduction Act of 1995, a separate notice will be published on the *Federal Register* to request comments regarding the burden of responding to the information collection activities of the proposed manual; please refer to the EAC's Web site, <http://www.eac.gov>, for further information about the submission of comments regarding burden.

DATES: Submit written or electronic comments on this draft procedural manual on or before 5 p.m. EDT on April 26, 2010.

ADDRESSES: Submit comments via e-mail to votingsystemguidelines@eac.gov; via mail to Brian Hancock, Director of Voting System Certification, U.S. Election Assistance Commission, 1201

New York Avenue, Suite 300, Washington, DC 20005; or via fax to 202-566-1392. An electronic copy of the proposed guidance may be found on the EAC's Web site at <http://www.eac.gov>.

FOR FURTHER INFORMATION CONTACT: Matthew Masterson, Deputy Director, Testing and Certification Program 1201 New York Avenue, Suite 300, Washington, DC, (202) 566-3100, Fax: (202) 566-1392.

Alice Miller,
Chief Operating Officer, U.S. Election Assistance Commission.

[FR Doc. 2010-8150 Filed 4-8-10; 8:45 am]

BILLING CODE 6820-KF-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13655-000]

Riverbank Minnesota, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

April 2, 2010.

On January 12, 2010, Riverbank Minnesota, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Granite Falls Pumped Storage Project No. 13655, to be located east of the City of Granite Falls and the Minnesota River in Chippewa County, Minnesota.

The proposed pumped storage project would consist of: (1) A new approximately 135-acre, 30-foot-deep upper reservoir constructed of enclosed earth embankments; (2) a new lower reservoir excavated in granite bedrock at a depth of approximately 1,800 feet below the surface, consisting of six approximately 150-foot-high, 90-foot-wide underground galleries; (3) a new approximately 20 to 100-foot-diameter intake structure; (4) a new approximately 1,800-foot-long, 20-foot-diameter penstock from the intake structure to an underground powerhouse; (5) a new approximately 380-foot-long, 83-foot-wide, and 400-foot-high underground powerhouse; (6) four new reversible pump-turbines with a total combined capacity of 1,000 megawatts; (7) a new 330-foot-long, 55-foot-wide, and 400-foot-high transformer gallery; (8) a new approximately 1.2-mile-long, 230-kilovolt transmission line; and (9) appurtenant facilities. The project

TAB
D

Federal Register

Monday
October 4, 1993

Part VIII

The President

Executive Order 12866—Regulatory
Planning and Review

Presidential Documents

Title 3—

Executive Order 12866 of September 30, 1993

The President

Regulatory Planning and Review

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Statement of Regulatory Philosophy and Principles. (a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) *The Principles of Regulation.* To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

(1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation

is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.

(11) Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

Sec. 2. Organization. An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people.

(a) *The Agencies.* Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and assuring that the regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) *The Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President, the Vice President, and other regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations, as provided by this Executive order.

(c) *The Vice President.* The Vice President is the principal advisor to the President on, and shall coordinate the development and presentation of recommendations concerning, regulatory policy, planning, and review, as set forth in this Executive order. In fulfilling their responsibilities under this Executive order, the President and the Vice President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President and the Vice President may, from time to time, consult.

Sec. 3. Definitions. For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President and Vice President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President for Science and Technology; (7) the Assistant to the President for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Deputy Assistant to the President and Director of the White House Office on Environmental Policy; and (12) the Administrator of OIRA, who also shall coordinate communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) "Agency," unless otherwise indicated, means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) "Director" means the Director of OMB.

(d) "Regulation" or "rule" means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations or rules that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations or rules that are limited to agency organization, management, or personnel matters; or

(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) "Regulatory action" means any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected

to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Sec. 4. Planning Mechanism. In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law: (a) *Agencies' Policy Meeting.* Early in each year's planning cycle, the Vice President shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) *Unified Regulatory Agenda.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. The Plan shall be approved personally by the agency head and shall contain at a minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies, the Advisors, and the Vice President.

(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency, the Advisors, and the Vice President.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies, the Advisors, and the Vice President.

(6) The Vice President, with the Advisors' assistance, may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) *Regulatory Working Group.* Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility, the Advisors, and the Vice President. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Vice President on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other agency.

(e) *Conferences.* The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

Sec. 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regula-

tions promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Vice President, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency or groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

Sec. 6. Centralized Review of Regulations. The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) *Agency Responsibilities.* (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory

actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the Federal Register or otherwise issued to the public, the agency shall:

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) *OIRA Responsibilities.* The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines: (i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10 working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did

not attend, and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when and by whom) Vice Presidential and Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the Federal Register or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

Sec. 7. Resolution of Conflicts. To the extent permitted by law, disagreements or conflicts between or among agency heads or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, or by the Vice President acting at the request of the President, with the relevant agency head (and, as appropriate, other interested government officials). Vice Presidential and Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

Resolution of such conflicts shall be informed by recommendations developed by the Vice President, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

During the Vice Presidential and Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Vice President shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

At the end of this review process, the President, or the Vice President acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President's decision with respect to the matter.

Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the Federal Register or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without

any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Vice President, as provided under section 7 of this order. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Sec. 9. Agency Authority. Nothing in this order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law.

Sec. 10. Judicial Review. Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 11. Revocations. Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.



THE WHITE HOUSE,
September 30, 1993.

[FR Doc. 93-24523

Filed 10-1-93; 12:12 pm]

Billing code 3195-01-M

Editorial note: For the President's remarks on signing this Executive order, see issue 39 of the *Weekly Compilation of Presidential Documents*.

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USENIX**ACCURATE** ★**IAVoSS****EVT/WOTE '10 Call for Papers****2010 Electronic Voting Technology Workshop/
Workshop on Trustworthy Elections (EVT/WOTE '10)**August 9–10, 2010
Washington, DC

Sponsored by **USENIX: The Advanced Computing Systems Association**; **ACCURATE: A Center for Correct, Usable, Reliable, Auditable, and Transparent Elections**; and **IAVoSS: The International Association for Voting System Sciences**

EVT/WOTE '10 will be co-located with the 19th USENIX Security Symposium (**USENIX Security '10**), which will take place August 11–13, 2010.

Important Dates

- Submissions due: **April 16, 2010, 11:59 p.m. PDT**
- Notification of acceptance: **May 26, 2010**
- Final paper files due: **June 23, 2010**

Workshop Organizers**Program Co-Chairs**

Doug Jones, *University of Iowa*
 Jean-Jacques Quisquater, *Université catholique de Louvain*
 Eric Rescorla, *RTFM, Inc.*

Program Committee

Josh Benaloh, *Microsoft Research*
 Aaron Burstein, *University of California, Berkeley*
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 Dan Wallach, *Rice University*

Overview

In many countries, most votes are counted and transported electronically, but there are numerous practical and policy implications of introducing electronic machines into the voting process. Both voting technology and its regulations are very much in flux, with open concerns including accuracy, reliability, robustness, security, transparency, equality, privacy, usability, and accessibility.

USENIX, ACCURATE, and IAVoSS are sponsoring the 2010 Electronic Voting Technology Workshop/Workshop on Trustworthy Elections (EVT/WOTE '10). EVT/WOTE brings together researchers from a variety of disciplines, ranging from computer science and human-computer interaction experts through political scientists, legal experts, election administrators, and voting equipment vendors. EVT/WOTE seeks to publish original research on important problems in all

aspects of electronic voting.

EVT/WOTE '10 will be a two-day event, Monday, August 9, and Tuesday, August 10, 2010, co-located with the 19th USENIX Security Symposium in Washington, DC. In addition to paper presentations, the workshop may include panel discussions with substantial time devoted to questions and answers. The workshop papers will be published electronically. Attendance at the workshop will be open to the public, although talks and refereed paper presentations will be by invitation only. There will be an award for the best paper.

Workshop Topics

Papers are solicited in all areas related to electronic voting, including but not limited to:

- Accessibility
- Analysis of/attacks on existing voting technologies
- Auditing
- Ballot integrity
- Ballot secrecy
- Case studies from the real world of elections
- Case studies of electronic voting experiments
- Design and implementation of new voting technologies
- Forensics
- Formal security analysis
- Impact of source code disclosure or nondisclosure
- Issues with and evolution of voting technology standards
- Legal issues including intellectual property
- Receipts and coercion resistance
- Risk assessment
- System testing methodologies
- Usability
- Verifiable election systems
- Vote collection/recording
- Vote tabulation
- Voter authentication
- Voter privacy and/or anonymity
- Voter registration and pre-voting processes
- Voting technology standards

Submission Instructions

Papers are due by Friday, April 16, 2010, at 11:59 p.m. PDT (firm deadline). All submissions will be made online via the [Web form](#). Submissions should be finished, complete papers.

Paper submissions should be about 10 to a maximum of 16 typeset pages, formatted in one column, using 11 point Times Roman type on 12 point leading, in a text block of 6.5" by 9". Once accepted, papers must be reformatted to fit in 8 to 16 pages in a two-column format, using 10 point Times Roman type on 12 point leading, in a text block of 6.5" by 9". If you wish, please make use of this [LaTeX style file](#) and [sample LaTeX file](#) (see the corresponding PDF [here](#)) when preparing your paper for submission. The page limits are intended to include the bibliography and any appendices. Reviewers may not take into consideration any portion of a submission that is over the stated limit.

Paper submissions must be anonymized: both author names and author affiliations must be removed; acknowledgements and other clear markers of affiliation (e.g., "we used data from XXX University") should be removed or rewritten; self-citations should be rewritten to be neutral (e.g., "In previous work, Smith showed . . .").

Submissions must be in PDF format (i.e., processed by Adobe's Acrobat Distiller or equivalent). Note that LaTeX users can use the "dvi2pdf" command to convert a DVI file into PDF format. Please make sure your submission can be opened using Adobe Acrobat 4.0.

All submissions will be judged on originality, relevance, correctness, and clarity. Simultaneous submission of the same work to multiple venues, submission of previously published work, or plagiarism constitutes dishonesty or fraud. USENIX, like other scientific and technical

conferences and journals, prohibits these practices and may take action against authors who have committed them. See the [USENIX Conference Submissions Policy](#) for details. If authors have relevant submissions in other venues that are under review at the same time as their submission to the workshop, they should separately notify the program co-chairs. Questions? Contact your program co-chairs, evtwote10chairs@usenix.org, or the USENIX office, submissionspolicy@usenix.org.

Papers accompanied by nondisclosure agreement forms will not be considered. Accepted submissions will be treated as confidential prior to publication on the USENIX EVT/WOTE '10 Web site; rejected submissions will be permanently treated as confidential.

Authors will be notified of acceptance by Wednesday, May 26, 2010. The final paper due date is Wednesday, June 23, 2010 (firm deadline). Each accepted submission may be assigned a member of the program committee to act as its shepherd through the preparation of the final paper. The assigned member will act as a conduit for feedback from the committee to the authors.

All papers will be available online to registered attendees before the workshop. If your accepted paper should not be published prior to the event, please notify production@usenix.org. The papers will be available online to everyone beginning on the first day of the workshop, August 9, 2010.

Specific questions about submissions may be sent to the program co-chairs at evtwote10chairs@usenix.org.

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