VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Personnel Development to Improve Services and Results for Children with Disabilities program. These measures include: (1) The percentage of projects that incorporate scientifically based or evidence-based practices; (2) the percentage of scholars who exit paraprofessional preparation programs prior to completion due to poor academic performance; (3) the percentage of degree or certification recipients who are working in the area(s) for which they were trained upon program completion; (4) the percentage of degree or certification recipients who are working in the area(s) for which they were trained upon program completion and are fully qualified under IDEA; (5) the percentage of scholars completing IDEA-funded preservice preparation programs who are knowledgeable and skilled in scientifically based or evidence-based practices for children with disabilities; and (6) the percentage of program graduates who maintain employment for three or more years in the area(s) for which they were trained.

Grantees may be asked to participate in assessing and providing information on these aspects of program quality.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application." This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

For Further Information Contact: Shedeh Hajghassemali, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4091, Potomac Center Plaza (PCP), Washington, DC 20202–2550. Telephone: (202) 245–7506.

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

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 4, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–5704 Filed 3–10–11; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

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

ACTION: Notice.

SUMMARY: Pursuant to Sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** changes to the HAVA state plans previously submitted by Delaware.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual state at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA state plans filed by the fifty states, the District of Columbia and the territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that states, territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA Sections 254(a)(11) through (13). HAVA Sections 254(a)(11)(A) and 255 require EAC to publish such updates. This is

the second revision to the state plan for Delaware.

The amendments to Delaware's state plan provide for compliance with the requirements of Title III. In accordance with HAVA Section 254(a)(12), all the state plans submitted for publication provide information on how the respective state succeeded in carrying out its previous state plan. Delaware confirms that its amendments to the state plan were developed and submitted for public comment in accordance with HAVA Sections 255 and 256.

Upon the expiration of thirty days from March 11, 2011, the state is eligible to implement the changes addressed in the plan that is published herein, in accordance with HAVA Section 254(a)(11)(C). EAC wishes to acknowledge the effort that went into revising this state plan and encourages further public comment, in writing, to the state election official listed below.

Chief State Election Official

Elaine Manlove, State Election Commissioner, 905 S. Governor's Ave., Suite 170, Dover, Delaware 19904, Phone: (302) 739–4277, Fax: (302) 739–6794.

Thank you for your interest in improving the voting process in America.

Dated: March 7, 2011.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

BILLING CODE 6820–KF–P

STATE OF DELAWARE

HELP AMERICA VOTE ACT

STATE PLAN

2010

INTRODUCTION

The Help America Vote Act of 2002 (HAVA) was enacted by Congress to make specified changes to election administration throughout the United States with the intention of strengthening the integrity of the election process, and to provide for the continuing improvement of election administration into the future.

HAVA also created a new federal agency, the Election Assistance Committee (EAC), to guide the management of federal elections and administer grants to states for fulfilling the requirements of HAVA's Title III.

HAVA further requires each state to develop and implement a plan to describe how it will use Title II funds to meet the requirements of the Act, as specified in Title III. Section 251 requires that all Title II funds be used for the purpose of meeting these requirements except that Title II funds may be used for "activities to improve the administration of elections for federal office" if a state certifies that it has met all the requirements of Title III.

Attachment A is a letter, pursuant to Section 251(b)(2)(A) from Elaine Manlove, Delaware State Election Commissioner, certifying that the state has met all Title III requirements. The actions and activities undertaken to implement Title III requirements are itemized in **Attachment B**.

Since Delaware is HAVA compliant, all remaining HAVA funds, future interest earned, and any additional payments received will be spent on maintaining the HAVA requirements and improving the administration of the election process.

BACKGROUND

The somewhat unique nature of election administration in Delaware bears mentioning. The administration of elections in Delaware is a state responsibility accomplished by the State Election Commissioner and the Departments of Elections in each of Delaware's three counties. The Commissioner of Elections is appointed by the Governor and confirmed by the State Senate. The Commissioner is responsible for establishing and assuring election management standards incorporating uniformity in the conduct of elections, the application of election standards, and voting equipment, among other duties. The Departments of Elections for each county report to respective Boards of Election that are appointed by the Governor. The Commissioner is an ex oficio member of each board. The Departments conduct elections in accordance with the Delaware Code and with standards and operating procedures established by the Commissioner. Because Delaware is a small state, the Commissioner's Office and the Departments of Elections in each county are able to uniformly administer election laws, standards, and procedures affecting the essential elements of the electoral process.

Delaware filed its initial State Plan September 15, 2003. The Plan was developed pursuant to the requirements of Sections 254, 255, and 256 of HAVA, including the appointment of a HAVA Committee, establishment of a state HAVA web site to provide information and receive public comments, and the required public hearing and notice procedures. An initial "gap analysis" identified where the state was already in compliance with HAVA and where action (including changes to state law) was required to bring the state into compliance.

Attachment D is a copy of the legislation implementing many of the Requirements of Title III of the Help America Vote Act.

Delaware revised its State Plan in September of 2005 --- again according to the procedural requirements of Sections 254, 255, and 256 of HAVA --- to reflect progress in implementing the Act and to specify how additional funding would be directed to meeting Title III requirements.

State Election Commissioner Elaine Manlove convened a two-day meeting on May 20-21, 2009 to discuss HAVA implementation and potential improvements in the administration of elections in Delaware. Day 1 included election officials from each of the three counties as well as personnel from the office of the Election Commissioner. Day 2 expanded the discussion to also include the HAVA Committee members as representatives from the "stakeholder community." The purpose of the meetings was to systematically discuss each aspect of HAVA implementation and election administration, identify problems, inefficiencies, or barriers, develop a list of possible actions to improve election administration (with specific attention to the application of technology to accomplishing these improvements) and to determine whether the current State Plan should be updated.

THE 2010 DELAWARE STATE PLAN

Section 254 of HAVA specifies the required elements of a State Plan. Each State Plan must include a narrative description of those elements. Delaware intends to monitor, maintain, and improve on those activities required by HAVA, and to generally improve the administration of Federal elections within the boundaries of the guidelines and opinions of the Election Assistance Commission.

GOALS AND GUIDING PRINCIPLES

There are several goals and guiding principles that will function as the compass the state will use in determining the direction of its vision for future election activities. These include:

1. Preservation, protection, and enhancement of the integrity and security of the voting process.
2. Application of technology to improve the voting process, and appropriate research and support to maximize the benefits of that technology.
3. Continuous improvement of the voting experience such that all Delaware citizens find it simple, easy, accessible, and convenient to participate.
4. Continuous improvement of the administration of elections such that the infrastructure of the election process provides the best possible customer service.
5. Ensuring that elections are conducted openly, fairly, honestly, transparently, professionally, and to the highest ethical standards so that all citizens continue to trust and respect the election process and results.

HAVA SECTION 254: ELEMENTS OF A STATE PLAN

SECTION 254(a)(1)

How the State will use the requirements payments to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.

Since Delaware is HAVA compliant, all remaining HAVA funds, future interest, and additional requirements payments made to the State will be used to: (a) monitor, maintain, and enhance activities required by HAVA and; (b) improve administration of elections for Federal office. Since the State has fulfilled HAVA's requirements and will continue to do so, the State wishes not to restrict itself unnecessarily through this State Plan. Rather than narrowly predict or specify future programs, this State Plan is constructed so as to provide the flexibility to respond to new technologies, mandates, unforeseen circumstances, or administrative improvements so that this State Plan may stand indefinitely without need for further revision. The State will continue to publish annual fiscal and narrative reports.

With continued conservative management of HAVA funds and the benefit of accumulating interest, the State may be able to indefinitely continue to meet HAVA requirements and improve the administration of federal elections in Delaware without needing further state resources.

SECTION 254(a)(2)(A)

How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of the criteria to be used to determine the eligibility of such units or entities for receiving the payment.

As described in the BACKGROUND section of this report above, Delaware has a somewhat unique structure for election administration. There are no local government units involved since the Department of Elections in each county are independent state agencies. Each Department has its own budget appropriated by the General Assembly. They do, however, serve counties and they will receive resources to carry out HAVA mandates as a statewide effort. Supplies and equipment for HAVA purposes are purchased and distributed by the State Election Commissioner. Any RFPs or other requirements that are necessary will be developed by the State Election Commissioner in collaboration with the county Departments.

SECTION 254(a)(2)(B)

How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of the methods to be used by the State to monitor the performance of the units or entities to who payment is distributed, consistent with the goals and measures adopted under paragraph (8).

The State uses a single audit procedure to track expenditures by the Departments of Elections in each county by maintaining all HAVA expenditures on a State level in the office of the State Election Commissioner. The State will audit HAVA expenditures through its normal audit procedures. The three county Departments of Elections will report to the State Election Commissioner on how the expenditures contribute to the appropriate performance measures that adopted pursuant to Section 254(a)(8).

SECTION 254(a)(3)

How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

Training and education of election officials, poll workers, and voters is a vital element of the goals enumerated above, namely:

Continuous improvement of the administration of elections such that the infrastructure of the election process provides the best possible customer service.

Ensuring that elections are conducted openly, fairly, honestly, transparently, professionally, and to the highest ethical standards so that all citizens continue to trust and respect the election process and results.

Continuous improvement of the voting experience such that all Delaware citizens find it simple, easy, and convenient to participate.

The State Election Commissioner, in conjunction with county election officials and others, develops and maintains standards for training and education. In addition, the State employs an "Educator/Trainer" to assist with this development and to conduct training with state agencies and others. Educational materials and programs address HAVA requirements.

Examples of training and educational efforts may include, but are not limited to, development, implementation, and/or updating materials and programs for:

ELECTION OFFICIALS

- Training and development of Information Technology personnel to encourage retention of key and critical personnel;
- Implementation of a certification program for Information Technology employees;
- Development of a knowledge-based Help Desk that includes information for election officials;
- HAVA requirements;
- Development of training targeting new election personnel;
- New laws and requirements effecting elections;
- Voting procedures and requirements for UOCAVA voters;
- Facilitating professional development through participation in conferences, courses, and certification programs;
- Continuing development of the Educator/Trainer position;
- Determining polling place accessibility for persons with disabilities;
- Methods to make polling places temporarily accessible on Election Day;
- Etc.

POLL WORKERS

- Development and updating of on-line materials to augment in-person poll worker training;
- HAVA requirements;
- Issues of accessibility for persons who are disabled;
- Sensitivity to special needs voters, including persons with disabilities;
- Operation and maintenance of voting equipment;
- Emergency procedures on Election Day;
- New laws and procedures regarding elections;
- Procedures for provisional ballots;
- Etc.

VOTERS

- HAVA requirements, including ID requirement for 1st time voters;
- Registration and voting procedures for voters who are newly eligible due to becoming 18 years of age, new residents in the State, or through naturalization as US citizens;
- How to register to vote, voter registration requirements, and how to cast a ballot;
- Increased voter familiarity with voting equipment, including demonstrations at events and schools
- Increased familiarity with rights and responsibilities
- Voter actions that can decrease the error rate in both polling place and absentee voting;
- The provisional ballot process, including information on the "free Access" system and how to locate the appropriate polling place on Election Day;
- Development of a knowledge-based "Help Desk" to answer election-related questions;
- Providing information and materials at Department of Motor Vehicle offices;
- Information for UOCAVA voters, including a web site;
- Programs encouraging students to participate in civic affairs, such as elections;
- Development of social networking tools to target younger voters;
- Conducting mock elections;
- Developing information on absentee voting for inclusion on election web sites;
- Etc.

ACCESSIBILITY FOR VOTERS WITH SPECIAL NEEDS

Although not required as an element of State Plans, Delaware is committed to making the entire election process as accessible to persons with disabilities as is possible and feasible. Examples of actions, materials, or programs the State may undertake include, but are not limited to:

- Surveying potential polling places to determine if they meet criteria for accessibility;
- Temporary measures to make polling places accessible on Election Day;
- Early voting at accessible election office sites;
- Poll worker training on accessibility and sensitivity;
- Development and distribution of educational materials specifically designed to provide information on accessibility;
- Ensuring that the State's election web site meets industry standards for accessibility;

- Upgrades to voting equipment to increase accessibility;
- Application for grant funds to increase polling place accessibility;
- Etc.

APPLICATION OF TECHNOLOGY TO IMPROVEMENT OF ELECTION ADMINISTRATION

Although not required as an element of State Plans, Delaware is committed to integrating technology into the election process as a part of our goal to continuously improve both the implementation of HAVA requirements and improvement of election administration. Examples of actions, materials, or programs the State may undertake include, but are not limited to:

- Develop and implement incentives to facilitate recruitment, training, and retention of key personnel, including experienced software developers and database administrators and others with expertise in Information Technology, with a career ladder adequate to insure redundancy of expertise and/or succession in the case of loss or absence of a key employee;
- Meet the goal of ensuring that the State is not dependent on the vendor community for conduct of elections, including operation and maintenance of voting system equipment;, the statewide voter registration database, and other technology dependent programs;
- Set standards for repair of critical systems so that glitches, bugs, and other system complexities are resolved as quickly as possible;
- Develop standards for testing, back up and redundancy of voting systems and other equipment so that system failure or acts of God do not interfere with the orderly conduct of elections;
- Ensure adequate funding for voting systems and other equipment upgrades , maintenance, support, testing, documentation, audits, certification, and replacement, including software, firmware, and hardware, as well as ancillary expenses such as license renewal;
- Ensure that all equipment undergoes acceptance testing prior to installation and that a process for knowledge transfer exists that results in in-house operating and maintenance expertise;
- Continuously improve the election web site --- including incorporation of information for persons with disabilities, military and overseas voters, persons who need language assistance, etc;
- Implement and integrate an Electronic Poll Book into the current election system;
- Construct a "Command Center" for each election, with uninterrupted power supply and communication capability from the State to each county (and potentially from the county to each polling place within the county) to facilitate response to any election related emergencies or other situations on Election Day;
- Enhance the current "Free Access" and "Polling Place Look Up" systems;
- Research web-based candidate qualification and election night reporting systems;
- Ensure that the State has trained GPS and GIS technicians and technology to assist with precincting voters, assisting voters in finding their polling place, and reapportioning legislative districts;
- Potential integration of polling place accessibility surveys into an on-line tool;
- Conducting an analysis after each general election to evaluate error rates, reliability, user friendliness, and accessibility to identify potential problems and improvements;
- Expand the current voter registration system at Department of Motor Vehicle offices to provide equal access to information on all political parties;
- Research and, if appropriate, implement an "Asset Tracking" system for all voting system equipment, as well as an inventory and control system for voting software;
- Regularly evaluate new equipment and software opportunities for accessibility of the voting process, including absentee and write-in voting, for voters with disabilities;
- Conduct an independent security/risk analysis to determine the overall integrity of the voting process and suggest improvements;
- Etc.

SECTION 254(a)(4)

How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

The State, through the State Election Commissioner, purchases voting equipment in Delaware. Legislation enacted in July 2003 requires that all voting systems purchased after that date be certified by the National Association of State Election Directors and/or the Election Assistance Commission. The voting equipment now in use throughout the State is HAVA compliant including for persons with visual disabilities. The State has purchased audio units that have been integrated into the current voting machines for persons with visual disabilities.

All new voting equipment included in the definition of "Voting System" in Section 301(b) will meet the requirements of Section 301, including the capability to:

- Permit the voter, in a private and independent manner, to verify and/or correct his or her ballot;
- Notify the voter of an overvote and permit the voter to correct it;
- Include an educational program for absentee voters;
- Produce a permanent paper record with a manual audit capability;
- Be accessible (as specified)to persons with disabilities;
- Be accessible (in jurisdictions where this is required) to persons who need language assistance;
- Comply with error rate standards promulgated by the Election Assistance Commission, and;
- Include a uniform definition of what constitutes a vote.

SECTION 254(a)(5)

How the state will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.

The State has established an election fund with the Mellon Financial Corporation (State of Delaware-General Collection Account). The State Election Commissioner, as the chief state election official, is the single managing authority for receipt of election funds. After complying with the Single Point of Contact procedure established by the Office of Management and Budget, which is the submission of an expenditure budget for the State Clearinghouse, the funds are transferred to the Commissioner of Elections appropriations. The management of the election fund is consistent with current Delaware Financial Management System standards and procedures. The Department understands that it must provide periodic reports on the use of the Election Fund to the Election Assistance Commission and that the Election Fund is subject to audit by various federal and state entities. The State Election Commissioner will report the status of the fund at least annually to the State Plan Task Force Committee.

Since Delaware is HAVA compliant, all HAVA funds remaining from prior fiscal years, future interest earned, and any additional payments received will be spent on maintaining HAVA requirements and improving the administration of the election process.

The State may elect to create a separate or sub-account --- The Delaware Infrastructure of Democracy Fund --- with the principal and interest from this account restricted to funding replacement, modification, or upgrading of voting systems, as defined in Section 301(b), HAVA related functionality of the statewide voter registration database, and/or other capital assets. This fund would be managed to the same standards and with the same practices is the existing fund.

SECTION 254(a)(6)

The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on: (A) the costs of the activities required to be carried out to meet the requirements of Title III; (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and (C) the portion of the requirements payment which will be used to carry out other activities. (*See Page 17 for Proposed Budget*)

In previous HAVA State Plans, Delaware has described detailed budgets for projected expenses to meet Title III requirements. All programs were fulfilled within that budget and significant funds remain available to the State for ongoing HAVA expenses, future voting system purchases, and other improvements to the administration of federal elections.

The nature and extent of future costs to administer HAVA and improve elections is largely unknown. The State expects that costs to the State to continue HAVA programs will likely be reduced for some time as they become interwoven into the fabric of election administration and require less training and education of election officials and poll workers. Voting systems have been modified or purchased to meet accessibility and other Section 301 requirements and are not expected to need replacement in the near future. Similarly, modifications have been made to the pre-existing statewide voter registration database to bring it into HAVA compliance. Procedural requirements of Title III have been built into ongoing and routine election administration.

Continued compliance with HAVA requirements will require costs for maintenance, technical support, network connections, and software/firmware upgrades, among other expenditures. Implementation of new and future laws (e.g. the Military and Overseas Voter Empowerment Act) may also require funding. Taking a longer view, there is a significant need for setting aside funds for replacement of voting systems and other capital equipment.

Since Delaware is HAVA compliant, all remaining HAVA funds, future interest, and additional requirements payments made to the State will be used to: (a) monitor, maintain, and enhance activities required by HAVA and; (b) improve administration of elections for Federal office.

Since the State has fulfilled HAVA's requirements and will continue to do so, the State wishes not to restrict itself unnecessarily through this State Plan. Rather than narrowly predict or specify future programs and spending, this State Plan is constructed so as to provide the flexibility to respond to new technologies, mandates, unforeseen circumstances, or administrative improvements so that this State Plan may stand more or less indefinitely without need for further revision. The State will continue to publish annual fiscal and narrative reports.

With continued conservative management of HAVA funds and the benefit of accumulating interest, the State may be able to indefinitely continue to meet HAVA requirements and improve the administration of federal elections in Delaware without needing further state resources.

SECTION 254(a)(7)

How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

The State will fund the Commissioner's Office and the Departments of Elections for the counties for expenditures at or above 2000 levels for activities consistent with HAVA. The total appropriation prior to 2000 was $3,264,102.73. Currently the State exceeds this expenditure level.

SECTION 254(a)(8)

How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

Delaware has met the requirements of Title III and has fulfilled the goals described in prior State Plans (see Attachment B), including, but not limited to: providing a private and independent voting opportunity to every registered voter; educating voters on how to avoid and correct ballot errors; integrating the statewide voter registration database with the Department of Motor Vehicles; verifying each new voter registration against a unique identifier; adopting a uniform definition of a vote; posting required notices at polling places; complying with requirements for a provisional voting system; and establishing requirements for first time voters.

In addition, the State will monitor new requirements, such as the potential for required provision of language assistance, for which the State is not now responsible.

The State Election Commissioner and county election officials will continue to monitor these processes (See Section 11).

SECTION 254(a)(9)

A description of the uniform, nondiscriminatory, state-based administrative complaint procedures in effect under Section 402.

The administrative complaint process is described in the legislation that was enacted in July, 2003. A copy is of the statute is included in Attachment D.

SECTION 254(a)(10)

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

The State used Title I payments to integrate both state and federal elections into a single Election Management System, thereby creating a stable infrastructure to conduct Delaware elections and to plan for the future needs of Delaware voters. Maintenance and upgrades of this Election Management System will be an ongoing activity in implementation of HAVA requirements.

SECTION 254(a)(11)

How the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless the change: (A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan; (B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and (C) takes effect only after the expiration of the 30-day period, which begins on the date the change, is published in the Federal Register in accordance with subparagraph (A).

Ongoing management of the State Plan is an important concern for Delaware election officials. As indicated in earlier sections, the intent of this Plan is to focus future efforts on the twin goals of maintaining HAVA requirements and improving administration of elections.

PROCESS FOR PLAN MANAGEMENT

The State is a leader in election management and will encourage new ideas and programs to emerge to solve problems and improve service. The Plan will be managed and administered --- with the highest level of professionalism --- through the following process:

- The State Election Commissioner is ultimately responsible for management of the Plan; in collaboration with the Departments of Elections in each county.
- The State Election Commissioner maintains standards and procedures for essential elements of HAVA administration, including a State Manual, to ensure uniformity of application.
- The HAVA Task Force, consisting of election officials, experts, stakeholders, and representatives of other state agencies will continue to exist and meet on a regular basis, as determined by the State Election Commissioner in collaboration with members of the Task Force.
- The State Election Commissioner, in conjunction with the HAVA Task Force, may establish goals and set performance metrics to evaluate progress towards goal these goals;
- The State Election Commissioner will publish an annual report for public review;
- The State Election Commissioner will approve all HAVA expenditures, and the State Auditor will provide regular review of budgetary expenditures;
- The HAVA Task Force will study and research activities and programs to promote the overall goals of the Plan and to encourage continuous improvement in the Plan's implementation;
- Although the intention of this Plan is to provide flexibility for future efforts to improve election administration, changes that materially affect the Plan will be subject to the procedural requirements of Sections 255 and 256 of HAVA.

ADDITIONAL MANAGEMENT OBJECTIVES AND ACTIVITIES

- Identify Information Technology as an essential element of successful election administration and ensure that IT personnel, including experienced software developers and database administrators, are recruited, trained, and retained;
- Promote a culture of customer service and continuous improvement in the election community;
- Ensure that elections staff, to the greatest degree possible independent of vendor assistance, can operate, maintain, and improve essential election equipment, including voting systems and the statewide voter registration database;
- Periodically conduct security and system risk analyses to maintain the integrity of the election process;
- Take steps to anticipate potential natural or man-made disasters and construct plans to prepare for these circumstances. Examples might include training retired election officials to fill in if an emergency results in the sudden loss of one or more key elections employee at a critical point in the election process, or development of Desk Manuals and other program documentation for important election tasks;
- Continue and improve quality assurance practices to reduce the potential for errors and omissions in ballots and other election materials.

SECTION 254(a)(12)

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

The methods by which Delaware met the requirements of Title III are described in Attachment B. The State anticipates no major changes to its implementation of HAVA, except that Title II, Section 251 funds may now be used for additional improvements to the administration of federal elections.

SECTION 254(a)(13)

A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

Delaware filed its initial State Plan September 15, 2003. The Plan was developed pursuant to the requirements of Sections 254, 255, and 256 of HAVA, including the appointment of a HAVA Committee, establishment of a state HAVA web site to provide information and receive public comments, and the required public hearing and notice procedures. An initial "gap analysis" identified where the state was already in compliance with HAVA and where action (including changes to state law) was required to bring the state into compliance. Membership on the HAVA Task Force has to some degree changed over time, but many members have had consistent participation through the several revisions.

Delaware revised its State Plan in September of 2005 --- again according to the procedural requirements of Sections 254, 255, and 256 of HAVA --- to reflect progress in implementing the Act and to specify how additional funding would be directed to meeting Title III requirements.

State Election Commissioner Elaine Manlove convened a two-day meeting on May 20-21, 2009 to discuss HAVA implementation, potential improvements in the administration of elections in Delaware, and changes to the State Plan. Attendees at these meetings are listed below. Day 1 included election officials from each of the three counties as well as personnel from the office of the Election Commissioner. Day 2 expanded the discussion to also include the HAVA Committee members as representatives from the "stakeholder community" as well as representatives from other state agencies involved in HAVA implementation and the Governor's office. The purpose of the meetings was to systematically discuss each aspect of HAVA implementation and election administration, identify problems, inefficiencies, or barriers, develop a list of possible actions to improve election administration (with specific attention to the application of technology to accomplishing these improvements) and to determine whether the current State Plan should be updated.

The State Election Commissioner contracted with the Election Center, also known as the National Association of Election Officials, a nationally recognized organization formed to promote, preserve, and improve democracy, to prepare an updated "2010 HAVA State Plan for the State of Delaware."

This Plan was reviewed by the State Election Commissioner, as well as others, and was published and posted on the State's HAVA website (http://www.state.de.us/hava) for a period of 30 days. The website was established to provide public information and notice, and also to enable the public to review the updated State Plan and transmit comments electronically.

Comments and suggested revisions were reviewed and incorporated into the Plan, as appropriate.

HAVA TASK FORCE MEMBERS/ATTENDEES

Elaine Manlove, State Election Commissioner

Debra Grier, Educator/Trainer, Office of the Commissioner of Elections

Stan Anderson, Information Technology, Office of the Commissioner of Elections

Virginia Lane, Support Services Administrator, Office of the Commissioner of Elections

Heather Volkomer, Staff, Office of the Commissioner of Elections

Anthony Albence, Director, New Castle County Department of Elections

Howard Sholl, Deputy Director, New Castle County Department of Elections

Joyce Wright, Director, Kent County Department of Elections

Patrick W. Murray, Deputy Director, Kent County Department of Elections

Kenneth L. McDowell, Director, Sussex County Department of Elections

Jean A. Turner, Deputy Director, Sussex County Department of Elections

John Trabaudo Delaware Department of Technology and Information

Bob Goodhart, Delaware Division for the Visually Impaired

Kyle Hodges, State Council for Persons with Disabilities

Letty Diswood, League of Women Voters

Dana Rohrbough, Office of the Lieutenant Governor

Laura Waterland, Disabilities Law Program

Lisa Furber,CLASI (Disability Law Program in Kent County)

Lexi McFassel, CLASI (Disability Law Program in Kent County)

HELP AMERICA VOTE ACT - DELAWARE STATE PLAN BUDGET REVISED 2010

ITEM		TITLE	YR	YR	YR	YR	YR	YR	YR	UNIT	TIME	Expenditure				Title II	EXTENDED DESCRIPTION
																$56,579.00	
																$1,425,000.00	
	TITLE II	$1,481.579..00														$1,481,579.00	
							10	11	12								
Election Improvements	Maintenance						x	x	x	$250,000.00	3	$750,000.00				$731,579.00	● Maintenance for Voting Machines
										$250,000.00		$750,000.00					
	Maintenance						x	x	x	$56,000.00	3	$168,000.00				563,579.00	● Election Management System
										$56,000.00		$168,000.00					
Election Expenses	Provisional Voting						x	x	x	$145,000.00	3	$435,000.00				$128,579.00	●Provisional Poll Workers,
										$145,000.00		$435,000.00					Salaries, Training
	Voting Rights Information						x	x	x	$42,859.66	3	$128,579.00				0.00	●News Papers, Manuals, Polling Materials
										$42,859.26		$128,579.00					

ATTACHMENTS

A Title III Compliance Letter

B State of Delaware Compliance with Title III Requirements

C Implementation of the Military and Overseas Voter Empowerment Act

D Delaware Statutes Implementing HAVA Requirements

ATTACHMENT A

Date

U.S. Election Assistance Commission
1201 New York Avenue, Suite 300
Washington, D.C. 20005

Dear Commissioners:

The Help America Vote Act of 2002 (HAVA) was enacted by Congress to make specified changes to election administration throughout the United States with the intention of strengthening the integrity of the election process, and to provide for the continuing improvement of election administration into the future.

Section 251(b) of the Help America Vote Act of 2002 requires that states use title II payments received to meet the requirements of title III.

Section 251(b)(2)(A) indicates that states may use requirements payments to "improve the administration of elections for Federal office" if the State certifies to the Commission that the State has implemented the requirements of title III.

This letter serves as official certification that the State of Delaware has implemented the requirements of title III of the Help America Vote Act of 2002 and intends to use remaining funds, as well as interest and any future funds, to continue to meet HAVA requirements and improve the administration of Federal elections in our state.

Sincerely,

Elaine Manlove
State Election Commissioner
905 S. Governor's Avenue, Suite 170
Dover, Delaware 19904

ATTACHMENT B

IMPLEMENTATION OF THE HELP AMERICA VOTE ACT OF 2003

THE STATE OF DELAWARE

SUMMARY OF REQUIREMENTS AND COMPLIANCE WITH THE REQUIREMENTS OF TITLE III

SECTION 301 – VOTING SYSTEM STANDARDS

REQUIREMENT

Each voting system used in an election for Federal office is required to permit voters, in a private and independent manner, to verify and correct their voting choices before their ballot is actually cast and (b) notify the voter (including absentee voters) if he or she has over voted.

Each voting system is required to produce a permanent paper record of each of the ballots cast that permits a manual audit of those votes and provides an opportunity for the voter to change his or her vote before the paper record is created.

Each voting system is required to provide voters with disabilities with the same opportunity for access and participation as other voters, and provide alternative language accessibility if so required by the Voting Rights Act of 1965, as amended.

Each voting system is required to not exceed the error rate established by the Election Assistance Commission.

Each state is required to adopt a uniform and nondiscriminatory definition of what constitutes a vote and what will be counted as a vote for each voting system in use in the state.

COMPLIANCE

All primary, general and special elections are conducted in accordance with Delaware Code, Title 15, using Danaher Controls *ELECT*ronic 1242 (model 6T) full-face ballot Direct Recording Electronic (DRE) voting machines. The machines are stored, maintained, and ballots programmed by the Departments of Elections in each county following standards produced by the State Election Commissioner. The Departments and their boards of elections also certify and secure the machines for each election. These voting machines meet the requirements of Section 301, including providing accessibility for individuals with disabilities.

Delaware uses paper ballots for absentee voting. To comply with section 301, the State created an education program and provided instructions as required by section 301(a)(1)(B). Under existing provisions of the Delaware Code, the Commissioner prepares the instructions based upon shared practices in the Departments of Elections in each county.

The Delaware Legislature enacted legislation defining what constitutes a vote for each voting system in use in the state. The legislation is included in Attachment D. Changes have been made to training manuals and programs accommodating the new standards.

SECTION 302 (a) --- PROVISIONAL VOTING

REQUIREMENT

Voters whose names do not appear on the list of voters at a polling place, or who are asserted by an election official to not be eligible to vote, shall be notified that they may cast a provisional ballot, as specified. The elections official shall count the voter's ballot upon determining the voter's eligibility.

Voters who cast provisional ballots shall be given information describing how he or she may, using a "free access" system, determine if his or her provisional ballot was counted, and, if not, why not.

COMPLIANCE

Enacted legislation (See Attachment D) authorizes provisional voting in state law. Poll workers are trained using the statewide standard in each county to offer provisional ballots under the conditions set forth in Section 302 of HAVA. The ballots are cast on paper and sealed using a double envelope system similar to that used for absentee ballots. Each completed ballot is assigned a tracking number. The Departments of Elections for each of the counties meet the day following the election to determine the eligibility of provisional voters in accordance with Delaware law. The Commissioner of Elections has created a "free access" system so that provisional voters can determine whether their ballots were counted and, if not, the reason why.

SECTION 302 (b) --- POSTING INFORMATION ON ELECTION DAY

REQUIREMENT

Election officials are required to post specified information at each polling place on Election Day.

COMPLIANCE

Section 4910 of Title 15 of the Delaware Code (see Attachment D) specifies requirements for posting of information at polling places on Election Day, including:

- A sample of the Election Day ballot;
- The election date and polling place hours;
- Instructions on how to vote and how to vote by provisional ballot;
- Instructions about mail-in registrants and information for first- time voters;
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated;
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

The State Election Commissioner, in collaboration with the Departments of Elections in each County, has adopted standards to produce statewide uniformity of information and practice.

SECTION 302 (c) --- VOTERS WHO VOTE AFTER THE POLLS CLOSE

REQUIREMENT

If the period for voting is extended by order of a court, any person wishing to vote must do so by provisional ballot.

COMPLIANCE

Section 4948 of Title 15 of the Delaware Code was enacted to comply with this requirement.

SECTION 303 (a) --- COMPUTERIZED STATEWIDE VOTER REGISTRATION DATABASE

REQUIREMENT

Each state is required to implement a single, uniform, official, centralized, interactive statewide voter registration list that is defined, maintained, and administered at the state level and contains the name and registration information, including a unique identifier, of every legally registered voter, and is immediately accessible to local election officials.

Election officials are required to maintain the list so as to ensure its accuracy and remove the names of ineligible voters and to provide appropriate security to ensure against unauthorized access to the list.

Applications for voter registration are required to include a driver's license, the last four digits of the social security number, or a unique identifier assigned by the elections official. The elections official is required to determine the validity of the number provided or assigned through sharing of information with the Department of Motor Vehicles and the Social Security Administration.

COMPLIANCE

Delaware has a HAVA compliant statewide, computerized voter registration database administered, maintained, and evaluated by the State Election Commissioner. The Department of Elections in each county registers voters using a standard application. Those applications are forwarded to the Commissioner along with applications executed at the Division of Motor Vehicles, other state agencies as required by the National Voter Registration Act, or Organized Voter Registration Drives which are administered by the State Election Commissioner. Since voters register on paper forms, the Department of Elections in each county verifies required informational elements when registering applicants and before entering their names into the statewide system. All election officials have immediate access to the data once it is entered at the county level.

Delaware has made several changes in voter registration in order to implement HAVA. Voter registration forms have been revised to ask for the individual's driver's license number, the last 4 digits if a Social Security Number or the State assigns a unique identifier to individuals who do not provide a either.

The State has an on-going file maintenance program which checks various data elements with other databases form Vital Statistics and the Delaware Justice Department.

The State Election Commissioner has signed an agreement with the Division of Motor vehicles to share data file information in July of 2005. The State's Division of Motor Vehicles is responsible for completing an agreement with the Social Security Administration to match information as required by section 303(a)(5)(B).

SECTION 303 (b) --- REQUIREMENT FOR VOTERS WHO REGISTER BY MAIL

REQUIREMENT

Specified individuals who register to vote by mail rather than in person and who appear to vote at a polling place are required to present a current and valid photo identification or other document that shows both the name and address of the voter.

Persons who similarly register and apply to vote by absentee ballot are also required to provide proof of identity and residence.

The mail-in registration form is required to include questions and boxes to ascertain that the voter is a minimum of 18 years of age and a citizen of the United States.

COMPLIANCE

Legislation has been enacted to comply with HAVA requirements regarding identification for persons who register by mail according to the provisions of HAVA, including the ability to cast a "fail safe" provisional ballot, and the required elements of forms to register to vote.

SECTION 402 --- ESTABLISHMENT OF AN ADMINISTRATIVE COMPLAINT PROCEDURE

REQUIREMENT

Each state is required to establish and maintain, as a condition of receiving funds, a procedure for individuals who believe that a violation of any provision of Title III has occurred or is about to occur to file a written complaint and to have that complaint responded to.

COMPLIANCE

Delaware has enacted Sections 4990 and 4991 of Title 15 of the Delaware Code specifying the procedure for complaints under this section.

SECTION 702 ---MILITARY AND OVERSEAS VOTERS

REQUIREMENT

Each state is required to designate a single state office to provide information to military and overseas voters regarding voting procedures and to report specified information to the Election Assistance Commission following each federal general election.

COMPLIANCE

Delaware has designated the New Castle County Department of Elections as the office for purposes of this requirement.

SECTION 253 (b) (3) --- CONDITION FOR RECEIPT OF FUNDS; STATE PLAN REQUIREMENT; CERTIFICATION OF COMPLIANCE WITH APPLICABLE LAWS AND REQUIREMENTS

REQUIREMENT

In order to receive a requirements payment a state must certify that it is in compliance with each of the laws described in Section 906 and has appropriated funds in an amount equal to 5 percent of the requirements payments allocated to the state.

COMPLIANCE

Delaware has made these certifications.

ATTACHMENT C

IMPLEMENTATION IN DELAWARE OF THE

MILITARY AND OVERSEAS VOTER EMPOWERMENT ACT OF 2009

The Military and Overseas Voter Empowerment Act of 2009 (MOVE) was signed into law on October 28, 2009 as a part of the National Defense Authorization Act to, among other provisions, augment the Uniformed Overseas Citizen Absentee Voting Act (UOCAVA) by:

- Permitting UOCAVA voters to request applications for voter registration and absentee voting by mail or electronically;
- Requiring states to transmit forms to register to vote and to apply for an absentee ballot by mail or electronically according to the preference selected by the voter;
- Requiring each state to provide at least one form of electronic transmission for voting materials;
- Requiring each state to develop procedures for transmitting blank ballots to UOCAVA voters by mail and electronically;
- Requiring states to develop a "free access" system to enable UOCAVA voters to determine whether his/her absentee ballot was received by the elections official;
- Prohibiting states from rejecting voter registrations, absentee ballot applications, or voted ballots due to a lack of notarization or because of paper or envelope type, weight, or size;
- Removing the UOCAVA requirement that a single absentee ballot application serves as a request for an absentee ballot for two federal election cycles;
- Amending the Help America Vote Act of 2002 to authorize funds to pay for implementation of MOVE's provisions, and also to permit states to use existing HAVA funds for this purpose;
- Requiring states to report the number of ballots transmitted and received, as well as other data determined appropriate by the Department of Defense;
- Making various requirements of the Department of Defense, the Election Assistance Commission, and the National Institute of Technology Standards to utilize technology and implement pilot programs to facilitate the voting process by UOCAVA voters.

Delaware views implementation of the Military and Overseas Voter Empowerment Act of 2009 as an important priority and has amended state law to facilitate UOCAVA voting in state primary elections. Military and overseas voters may now request a form to register to vote and apply for an absentee ballot by regular mail or FAX. The blank ballot may be sent to the voter and the voted ballot returned by regular mail, FAX, or email. In addition, Delaware, in order to provide additional enhancements for military and overseas voters, has requested, under the provisions of MOVE, a waiver from the requirement to fully implement the bill's requirements for the 2010 General Elections. Delaware has notified the Federal Voting Assistance Program of the state's desire and intention to be included in that agency's Election Wizard program.

Delaware has, to date, not received any funds from the Help America Vote Act to implement the requirements of MOVE.

The state will provide a supplemental filing upon further implementation of MOVE requirements.

ATTACHMENT D

STATE OF DELAWARE LEGISLATION ENACTING HAVA REQUIREMENTS

SENATE BILL NO. 153

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

WHEREAS, the Help America Vote Act of 2002 imposes several mandates upon the state; and

WHEREAS, it is necessary to implement the Help America Vote Act of 2002;

NOW, THEREFORE BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 15, § 1302 by striking the aforesaid section in its entirety and substituting in lieu thereof:

§ 1302 Voter registration application.

The Commissioner of Elections, in consultation with the Departments of Elections for the counties, shall promulgate the voter registration application and shall set the effective date of each new version. The application shall be updated as necessary to comply with state and federal law and/or to facilitate administration of the State's voter registration program. The application shall be uniform throughout the state and shall be used for all voter registration transactions within the state.

The application shall be in two parts. The Departments of Elections for the counties shall send the original part of each application that was accepted and processed to the Commissioner of Elections office. The Departments of Elections for the counties shall maintain the second copy in the County Master Record. The records contained in the County Master Record shall remain in the office of each department and not be removed for any reason except as provided by law.

The voter registration application shall include a question asking whether or not the applicant is a citizen of the United States. The Departments of Elections for the counties shall reject the applications of new registrants who indicate that they are not citizens of the United States or who fail to answer the question. The departments shall notify such persons by first-class mail that their application has been rejected and the reason (so) thereto. Persons already registered to vote who indicate that they are not citizens of the United States shall be notified by first-class mail that their voter registration shall be cancelled at the expiration of 15 days if they do not affirm in writing that they are citizens of the United States. The departments shall cancel the voter registration of any person who fails to affirm in writing that they are United States citizens after the expiration of the aforesaid 15-day period. Persons who subsequently affirm in writing to a department that they are United States citizens shall be reinstated by the department as a registered voter.

The voter registration application shall include a place for the applicant's home telephone number; provided, however, that the provision of a telephone number shall be annotated on the form as being optional, and no application shall be rejected for lack thereof. Any registered voter may have his/her telephone number removed from the electronic voter registration files by making a request of the department of elections for the county in which they are registered either by telephone or in writing. The applicant's signature may be a digitized signature obtained by a state agency as part of a process that includes registering a person to vote or updating his/her voter registration information.

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, may examine methods to streamline the voter registration process through the application of technology. The Commissioner of Elections, in consultation with the Departments of Elections for the counties, may adopt and implement such technology. In the event that the process adopted conflicts with subsection "(b)" above, that subsection shall be considered null and void. These innovations may include adoption of a paperless or semi-paperless registration process.

The Commissioner of Elections shall make the State's Voter Registration Application available on the internet by January 1, 2006.

Section 2. Amend Delaware Code, Title 15 by inserting as § 2015 the following:

§ 2015. Late registration procedures for military and overseas citizens.

An individual who has been discharged or separated from the Uniformed Services, the merchant marine, or from employment outside of the territorial limits of the United States too late to register to vote for a primary or general election but within 60 days of the date of a primary or general election, shall be entitled to register to vote for the purpose of voting in that and ensuing primary or general elections after presenting documentation of his/her discharge, separation, or termination of employment to the Department of Elections for the county in which he/she resides. This exception includes any accompanying family members who are otherwise eligible to register to vote.

Section 3. Amend Delaware Code, Title 15 by inserting as § 2016 the following:

§ 2016. Enfranchisement of citizens who have never resided in the United States.

If a United States citizen outside of the United States who has never lived in the United States has a parent who is a qualified elector of the State, then that person is eligible to register and vote where his/her parent is a qualified elector.

Section 4. Amend Delaware Code, Title 15 by inserting as § 2033 the following:

§ 2033. Special procedures for persons who register to vote by mail and have not voted in the State in an election for federal office.

A person who registers to vote by mail on or after January 1, 2003 shall submit with his/her application a copy of current and valid photo identification or 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. Should the person not include a copy of the required identification with the voter registration

application, the voter shall provide a valid photo identification or 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 prior to voting for the first time at a polling place in the State. If the person fails to show required identification at the polling place, he/she shall be permitted to vote by Provisional Ballot.

The poll lists and signature cards for each polling place shall identify those persons who must show proper identification before being permitted to vote.

A registrant may satisfy the requirement to submit identification by subsequently submitting a voter registration application through a source not subject to the provisions of this section (e.g.through the Division of Motor Vehicles).

A person who votes by absentee ballot and who registered to vote for the first time by mail and did not submit a copy of any of the required identification documents shall submit a copy of one or more of the documents listed in subsection "a" above showing the person's name and address with the Absentee Ballot. The Absentee Ballot from a person who is required to submit identification, and who does not, shall not be counted.

This section does not apply to persons listed in § 5502 (1) and § 5502 (2) of this title or to persons identified in subsection "a" above who submitted their driver's license number (includes State ID card number) or Social Security Number that the Department of Elections for a county is able to use to verify an existing State Identification record bearing the same number, the name and date of birth as provided by the applicant.

Section 5. Amend Delaware Code, Title 15, Chapter 49, by inserting as subchapter IV the following: Subchapter IV. Administrative Complaint Procedure

§ 4990. Applicability.

The Administrative Complaint Process shall only apply to alleged violations of Title III of the Help America Vote Act of 2002 to include an alleged violation that has occurred, is occurring or is about to occur.

§ 4991. Process.

The person making a complaint shall submit the complaint to the Commissioner of Elections or any of the Departments of Elections for the counties. The complaint shall be in writing, notarized, and signed and sworn to by the person making the complaint. If one of the Departments for the counties receives such a complaint, the Department shall forward it to the Commissioner of Elections on the same business day that it is received. The Commissioner of Elections shall notify the complainant(s) of receipt of the complaint and provide the complainant(s) a description of the complaint resolution process. The Commissioner of Elections may consolidate similar complaints. If requested by the complainant(s), there shall be a hearing for the record. The Commissioner of Elections shall appoint a person or persons to examine the complaint, gather information about the circumstances and then determine whether or not there was a violation of Title III. If the person handling the complaint determines that a violation has occurred, he/she shall recommend a suitable remedy to the Commissioner of Elections. The Commissioner may accept, reject or modify any proposed remedy. If the person handling the complaint determines that a violation did not occur, the complaint shall be dismissed.

The Commissioner of Elections shall publish the results of the resolution of each complaint as he/she sees fit. A final determination shall be made on each complaint as quickly as possible, but no later than 90 days following the date that the complaint was filed unless the complainant consents to a longer period for resolving the complaint. If the complaint is not resolved within 90 days and the complainant has not agreed to a longer period, the Commissioner of Elections shall take such steps as necessary to resolve the complaint within the next 60 days. The original complaint and all information developed in the previous attempt(s) to resolve the issue(s) shall be made available to the person(s) subsequently charged with resolving the complaint.

The Commissioner of Elections shall develop a system for tracking complaints alleging Title III violations.

Section 6. Amend Delaware Code, Title 15, § 4910 (a) by striking said subsection in its entirety and substituting in lieu thereof:

§4910 Posting Requirements

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall design poster(s) that will be uniform throughout the State. The poster(s) shall be publicly displayed in each polling place on the day of the election. The poster(s) shall contain the following information:
 Information stating the date and hours during which the polling place will be open;
 Instructions on how to vote, including how to cast a vote and how to cast a Provisional Ballot;
 Instructions for mail-in registrants who are first-time voters under Section 303(b) of the Help America Vote Act of 2002;
 General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and
 Instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
 General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

Section 7. Amend Subchapter II, Chapter 49, Title 15 of the Delaware Code by inserting as § 4948 the following:

§ 4948. Provisional Ballots.

Provisional ballots shall be used in primary and general elections conducted under the provisions of this title. Provisional ballots shall not be used in public school elections or municipal elections unless specifically authorized in Title 14, Title 15 and/or the respective town or city charter. A person claiming to be properly registered in an Election District, but whose eligibility to vote at that Election District cannot be determined, shall be entitled to vote a Provisional Ballot. Election officers shall inform a person who is not being permitted to vote for whatever reason that he/she may cast a provisional ballot in that election. The Inspector shall return all voted Provisional Ballots to the Department of Elections for the county responsible for the Election District on the night of the election.

Persons voting a Provisional Ballot shall present proof of identity and address to the Election Officers. The type of ID shown by the voter shall be annotated on the Provisional Ballot Envelope. If the person

does not show proof of identity or address, the person shall be permitted to vote by Provisional Ballot and the fact that he/she did not show proof of identity and/or address shall be annotated on the Provisional Ballot Envelope.

If Superior Court or another court of competent jurisdiction orders that some or all polling places in a county of the state be kept open beyond the normal time for closing, all persons who arrive to vote at the polling place(s) ordered to be kept open after the normal time for closing shall vote by Provisional Ballot. The Election Officers shall keep such ballots separate and return them to the Department of Elections for the county responsible for the Election District on the night of the election.

Provisional Ballots shall be as much as possible in the same form as Absentee Ballots except that only federal offices shall be listed and they shall be labeled as Provisional Ballots. The Departments of Elections for the counties shall provide to each Election District Provisional Ballots for 6% of the registered voters in the Election District as of 45 days prior to the date of the election. Regardless of the number of ballots required by this subsection, the Departments of Elections for the counties shall provide a minimum of 15 Provisional Ballots to each Election District.

Each Department of Elections for the counties shall deliver additional Provisional Ballots, envelopes, instructions or voter information sheets to the polling place for an Election District when notified by an Election Officer from the district that the supply of some or all of the Provisional Ballot materials is very low.

Election Officers shall give whatever assistance is requested by a voter who is voting by Provisional Ballot. When that assistance includes marking or assisting in marking the person's ballot, two Election Officers with different political party affiliations shall provide that assistance.

A voter who spoils his or her ballot shall, upon request, be given a replacement ballot after surrendering the spoiled ballot.

Tallying Provisional Ballots.

At 12 noon the day following an election in which Provisional Ballots were used, the Department of Elections for each county shall meet to examine the Provisional Ballots, determine which of the ballots should be tallied in accordance with the rules stated below, and then tally those ballots. The Attorney General shall appoint a Deputy Attorney General to advise each of the Departments of Elections for the counties as requested during the Provisional Ballot tallying process.

The county chairperson of each political party with a candidate on a Provisional Ballot within the county may appoint in writing one observer to be in the room where Provisional Ballots are being reviewed and tallied.

The Departments of Elections for each county shall sit until the disposition of every Provisional Ballot has been determined. Each county Department of Elections shall establish an appropriate schedule of breaks, meals and rest periods.

Where the Provisional Ballot affidavit is incomplete, the ballot shall be set aside, not opened and the votes not tallied. An incomplete affidavit shall be defined as one that does not include all of the following information: full name, complete address, political party affiliation (Primary Elections only), and date of birth.

Where the person who voted by Provisional Ballot did not show suitable identification at the polling place, the ballot shall be set aside, not opened and the votes not tallied.

Provisional Ballots cast by persons who are not registered to vote in the state or who are not registered to vote in the Election District in which they were cast shall be set aside, not opened and the votes not tallied.

A Provisional Ballot cast by a person who is registered to vote and who has moved into the Election District shall be counted if the person voted at the correct polling place for his/her new address.

Each Department of Elections for a county shall tally the Provisional Ballots that meet the above criteria. After all of the Provisional Ballots determined as meeting the above criteria have been tallied, the Department of Elections for the county shall deliver one copy of the Provisional Ballot Tally Sheet for each Election District, all the Provisional Ballots cast in the election, and all affidavits, envelopes and supporting documentation to the Prothonotary.

Post election processing and notification.

As soon as practical, but not later than 30 days following an election in which Provisional Ballots were used, the Department of Elections for each county shall enter the appropriate data into a free access system so that a person who voted by Provisional Ballot may determine whether or not his/her ballot was counted, and if it was not counted, the reason(s) for which it was not counted.

The respective Department of Elections for a county shall use the Provisional Ballot affidavit as authority to register a person to vote who voted by Provisional Ballot in an election and who is not already registered to vote providing that the minimum information required to register a person to vote is provided.
The Provisional Ballot envelope shall be used to transfer a registered voter's address and/or update his/her name when the address and/or name is different than the information on the person's voter registration record.

Section 8. Amend Delaware Code, Title 15, § 4972, by striking the aforesaid section in its entirety and substituting in lieu thereof the following.

§ 4972. Rules regarding what constitutes a legal vote.

Votes cast on a direct recording electronic voting machine shall be considered legal votes once the voter has taken the necessary action(s) to cast his/her ballot. A voter who has cast his/her ballot on a direct recording electronic voting machine shall not be permitted to cast a second ballot under any circumstances.

Votes cast at any election on paper ballots shall be counted for whom they are intended as far as can be ascertained by the marks on the ballot. The following rules shall be observed in determining those votes on paper ballots that shall be counted:

- The voter shall mark the ballot for his/her selections by placing a distinct mark in the box at the right of the name of the candidate and or response to a question for which he/she wants to vote; Where a voter indicates his/her selections in a manner not in accordance with paragraph "1" above, the Election Officers shall attempt to determine from the marks on the ballot the candidate or response that the voter intended to select; If it is not possible to determine a voter's choice for an office or response to a question, the ballot shall not be counted for that office or question but shall be counted for all other offices and questions on the ballot where the voter's intention can be determined;

- A voter may only vote for two or more choices for any office or question when specifically instructed on the ballot that it is allowable; Where a voter is permitted to make more than one choice for candidates and or responses to a question, he/she may make fewer than the allowable number of choices; If a ballot is marked for more names or responses than are permitted, it shall not be counted for that office or question, but it shall be counted for all other offices or questions on the ballot in accordance with these rules; and

- If a ballot has been defaced or torn so that it is impossible to determine the voter's choice for one or more offices or questions, it shall not be counted for such offices or questions but shall be counted for all other offices and questions where the voter's choice(s) can be determined.

Section 9. Amend Delaware Code, Title 15, § 5001A (a) by inserting as subsections (12) and (13) the following:

(12) It shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted. It shall provide the voter the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and corrected (including the opportunity to correct the error through the issuance of a replacement ballot before the voter has cast his/her ballot if the voter was otherwise unable to change the ballot or correct any error).

Section 10. Amend Delaware Code, Title 15, § 5001A (b) by striking the second sentence in its entirety and substituting in lieu thereof the following:

§ 5001A(b)

All voting devices used in any election shall provide the voter the opportunity to make his/her selections and cast his/her ballot in secrecy through placement of the devices in the polling place or through the use of curtains or other devices.

Section 11. Amend Delaware Code, Title 15, § 5001A by adding the following as subsection (d):

§ 5001A(d)

Any voting device, machine or system purchased by the State shall be certified by the National Association of State Election Directors or the Election Assistance Commission as meeting or exceeding the Voluntary Voting Systems Standards or Guidelines as promulgated by the Federal Election Commission or the Election Assistance Commission prior to delivery to and acceptance by the State.

Section 12. Amend Delaware Code, Title 15, § 5004A by inserting the following at the end of the section:

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall gather information from other jurisdictions using the same or similar systems and then establish an appropriate registered voter to voting device ratio for voting systems purchased after July 1, 2003.

Section 13. Amend Delaware Code, Title 15, § 5005A by adding the following as subsection (d):

(d) Nothing in this section shall preclude the use of an electronic device where the ballot is electronically generated and displayed or which has the capability to generate and display multiple ballots.

Section 14. Amend Delaware Code, Title 15, § 5503 (d) by adding the following as the second sentence:

Additionally, the Departments of Elections for the counties shall accept facsimile transmissions of affidavits for absentee ballots.

Section 15. Amend Delaware Code, Title 15, § 5523 by inserting the following as subsection (d):

(d) An FPCA submitted by a person who qualifies under any of the reasons set forth in § 5502(1) or §5502(2) of this chapter shall be valid for the next two general elections.

Section 16. Amend Delaware Code, Title 15, by inserting as § 5526 the following:

§ 5526. Emergency Authority for the Commissioner of Elections.

In the event that a national or local emergency makes substantial compliance with the provisions of this title and/or the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable for some of all of the citizens covered under § 5502(1) or § 5502(2) of this title, the Commissioner of Elections may direct the use of special procedures to facilitate absentee voting for those citizens directly affected who are eligible to vote in the State. Such an emergency may be a natural and/or humanitarian disaster; and/or armed conflict involving United States Armed Forces to include mobilized State National Guard and/or Reserve components.

The Commissioner of Elections shall consult with the Governor and the Federal Voting Assistance Program or its successor prior to directing the use of the special procedures cited in subsection "a" above.

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall promulgate special procedures to be followed in the event that such a national or local emergency occurs.

SYNOPSIS

This legislation if enacted will implement the Help America Vote Act of 2002 (HAVA), implement some recommendations regarding voting and registration of military and overseas and make other changes. Specifically, it provides that the Commissioner of Elections shall promulgate the voter registration application and deletes the list of items required in order to provide flexibility in quickly dealing with changes in federal law. It directs that a question dealing with citizenship be added and that a digitized signature obtained by a state agency in a process that includes voter registration be acceptable as an applicant's signature. It authorizes the Departments of Elections for the counties to accept facsimile transmissions of Affidavits for Absentee Ballots from all citizens. It adds the following provisions to comply with HAVA: establishes procedures for dealing with persons who registered by mail and have not voted in an election for federal office, establishes an Administrative Complaints Procedure for handling violations of HAVA's Title III mandate, provides for posting additional information in the polling place, authorizes Provisional Voting, defines what constitutes a legal vote, and modifies the standards for electronic voting systems, devices and/or machines. It, also, provides that military and overseas citizens who return to the United States within 60 days of an election and establish residence in Delaware can register to vote after the normal deadline, that citizens born abroad who have never lived in the State can register and vote if one of their parents is a qualified elector, and gives the Commissioner of Elections authority to direct the use of special procedures in handling the delivery and transmission of ballots to military and overseas citizens in the event of a national or local emergency.

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DEPARTMENT OF ENERGY

Notice of Availability of the Draft Environmental Impact Statement for the Mountaineer Commercial Scale Carbon Capture and Storage Project, Mason County, WV

AGENCY: U.S. Department of Energy.

ACTION: Notice of Availability and Public Hearing.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of the *Draft Environmental Impact Statement for the Mountaineer Commercial Scale Carbon Capture and Storage Project* (DOE/EIS–0445D) for public review and comment, as well as the date, location and time for a public hearing. The draft environmental impact statement (EIS) analyzes the potential environmental impacts of a project proposed by American Electric Power (AEP) Service Corporation, which was selected by DOE to receive financial assistance under the Clean Coal Power Initiative (CCPI) program. DOE's Proposed Action is to provide cost-shared funding to AEP under the CCPI. DOE proposes to provide up to $334 million of the project cost to support the construction and operation of AEP's Mountaineer Commercial Scale Carbon Capture and Storage (CCS) Project (Mountaineer CCS II Project). AEP's proposed project would construct a commercial-scale CCS system at its Mountaineer Power Plant (a 1,300-megawatt [MW] coal-fired power plant) and other AEP-owned properties in Mason County, West Virginia, near the town of New Haven. The project would capture carbon dioxide (CO_2) from the existing pulverized coal-fired power plant, transport the captured CO_2 by pipeline to well locations, and inject it into deep saline geologic formations for permanent geologic storage.

DATES: DOE invites the public to comment on the Draft EIS during the public comment period, which ends April 18, 2011. DOE will consider all comments postmarked or received during the comment period in preparing the Final EIS, and will consider late comments to the extent practicable. In addition to receiving comments in writing and by e-mail [*See* **ADDRESSES**], DOE will conduct a public hearing at which government agencies, private-sector organizations, Native American Tribes and individuals are invited to present oral and written comments on the Draft EIS. The public hearing will be held at the New Haven Elementary School at 138 Mill Street in New Haven, West Virginia, on March 30, 2011. Oral comments will be heard during the formal portion of the public hearing beginning at 7 p.m. The public is also invited to an informal session to learn more about the project and DOE's Proposed Action at the same location beginning at 6 p.m. Various displays and other information about DOE's Proposed Action and AEP's Mountaineer CCS II Project will be available. Representatives from DOE and AEP will discuss the proposed project, the CCPI program, and the EIS process at the informal session.

ADDRESSES: Requests for information about the Draft EIS, requests to receive paper or electronic copies of it or to provide comments on the Draft EIS should be directed to: Mr. Mark W. Lusk, NEPA Document Manager, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, M/S B07, P.O. Box 880, Morgantown, WV 26507–0880. Requests or comments can also be made by electronic mail at *Mountaineer.EIS0445@netl.doe.gov;* by telephone (412) 386–7435, toll-free 1–877–812–1569; or by fax (304) 285–4403.

The Draft EIS is available on DOE's NEPA Web page at: *http://nepa.energy.gov/DOE_NEPA_documents.htm;* and on the National Energy Technology Laboratory's Web page at: *http://www.netl.doe.gov/publications/others/nepa/index.html.* Copies of the Draft EIS will also be available at the locations listed in the **SUPPLEMENTARY INFORMATION** section of this Notice. Written comments on the Draft EIS should be marked "AEP Mountaineer CCS Project" and sent to Mark W. Lusk, NEPA Document Manager, by one of the methods listed above. Oral comments on the Draft EIS will be accepted by telephone at the numbers listed above, or during the public hearing scheduled for the date and location provided in the **DATES** section of this Notice.

FOR FURTHER INFORMATION CONTACT: For further information about this project or the Draft EIS, please contact Mr. Mark W. Lusk (*see* **ADDRESSES**). For general information on the DOE NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202) 586–4600; fax (202) 586–7031; or leave a toll-free message (1–800–472–2756).

SUPPLEMENTARY INFORMATION: DOE's Proposed Action is to provide $334 million in cost-shared financial assistance to AEP to support the construction and operation of AEP's Mountaineer CCS II Project. This financial assistance would constitute about 50 percent of the estimated total project cost during the 46-month demonstration period. Through a cooperative agreement with DOE, AEP would construct a CO_2 capture facility using Alstom's chilled ammonia process (CAP) at the Mountaineer Plant. Alstom's CAP is a proprietary process for removing CO_2 from combustion flue gas. The capture facility would be located within the boundaries of the existing Mountaineer Plant and would occupy approximately 11.5 acres. The capture facility would process a slipstream of the plant's flue gas, equivalent in quantity to the emissions from a 235–MW power plant. Each year, approximately 1.5 million metric tons of CO_2 would be captured, treated, and compressed into a highly concentrated form suitable for geologic storage. The processed CO_2 would be transported by pipeline (primarily underground) to injection wells on AEP properties located within approximately 12 miles of the Mountaineer Plant. The captured CO_2 would be injected into deep saline formations for permanent storage, approximately 1.5 miles below ground.

Consistent with DOE's objectives in CCPI Round 3, the Mountaineer CCS Project would be designed to:

- Remove approximately 90 percent of the CO_2 from the 235–MW slipstream;
- Demonstrate a commercial-scale deployment of the CAP for CO_2 capture; and
- Demonstrate the injection, permanent geologic storage, and monitoring of CO_2 in deep underground saline formations.

Existing infrastructure (*e.g.,* roadways, utilities) at the Mountaineer Plant would be used to the extent possible. However, upgrades to, and construction of, additional infrastructure may be required. Major new equipment would include absorbers, regenerators, strippers, pumps, heat exchangers, compressors, and a refrigeration system. In addition, the CO_2 capture system would include reagent and refrigerant unloading equipment, water-handling equipment, a control room, maintenance and administrative facilities, and a laboratory. All of these would be located at the Mountaineer Plant. Carbon dioxide injection wells and pipelines would be located along existing rights-of-way (ROWs) to the extent possible and on other AEP properties in the area.