

northwest of Bethel, in the Yukon-Kuskokwim Delta region of Western Alaska. The north, east, and south boundaries of the community are contiguous with the Yukon Delta National Wildlife Refuge.

The Newtok community is approximately 735 feet to the south of the encroaching Ninglick River, which is eroding toward the village at an average rate of 64 feet per year. Thermal degradation of the riverbank is causing shoreline sloughing.

A typical soil profile has deep-frozen silts layered with peat at the surface. Permafrost continuously underlies a 2-foot active layer (sometimes thicker when a greater layer of peat is present). The shoreline is highly vulnerable to flooding, especially during spring ice jams in the river or during severe westerly windstorms on the Bering Sea.

The programmatic DEIS will determine whether Federal action is warranted and will define alternative actions for Congressional consideration. Site specific alternatives will be addressed in more detail in a second tier of the EIS process.

**FOR FURTHER INFORMATION CONTACT:**

Lizette Boyer (907) 753-2637, Alaska District, U.S. Army Corps of Engineers, Environmental Resources Section (CEPOA-EN-CW-ER), P.O. Box 6898, Elmendorf AFB, AK 99506-0898. E-mail:

*Lizette.P.Boyer@poa02.usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** This study is authorized under section 203, 33 U.S.C. Tribal Partnership Program. The community of Newtok has existed on the present town site since 1949 when they moved from Old Kealavik, 3 miles away. The people of Newtok share a strong cultural heritage with the Nelson Island communities; their ancestors have lived on the Bering Sea coast for at least 2,000 years. Relative isolation from outside influences has enabled the area to retain its traditions and customs.

The programmatic DEIS will consider various erosion protection alternatives, including relocation of the community and construction of erosion protection structures in Newtok to prevent land and property losses. The feasibility of extensive bank protection will be analyzed and compared with relocation alternatives. Relocation would mean the abandonment of the Newtok community town site near the river. Relocation alternatives include moving the people of Newtok to a larger hub community such as Bethel where they would be incorporated into the fabric of that community; moving the population to a smaller, closer community such as one of the three existing communities on

Nelson Island (Toksook, Nightmure or Tununak), which would involve developing additional or shared infrastructure in those locations, or constructing a new town at a site on the north end of Nelson Island called Takikchak. The community is intent on relocating to Takikchak. The Newtok Native Corporation owns the Takikchak townsite. A portion of the land was conveyed to the Newtok Native Corporation from the Yukon Delta Fish and Wildlife Refuge in 2003 in accordance with Pub. L. 108-129. The Nelson Island area is within their traditional subsistence corridors.

*Issues:* The programmatic DEIS will consider the need of Newtok to preserve its community identity and the potential impacts of the alternatives on the cultural resources and infrastructure of the community. In addition, the programmatic DEIS will address the importance of maintaining the community's traditional subsistence lifestyles, while providing modern infrastructure and housing. Issues associated with relocation to an existing community include property and business losses, impacts of social/cultural changes, and impacts on the infrastructure capacity of the receiving location. Issues associated with relocation and construction of a new townsite include engineering constructability criteria and environmental suitability. Constructability criteria include geologic stability, availability of fill material, and potable water sources. Environmental issues include effects to endangered species and wildlife habitat, and justifiable and practicable mitigation measures. Other resources and concerns will be identified through scoping, public involvement, and interagency coordination.

*Scoping.* A copy of this notice and additional public information will be sent to interested parties to initiate scoping. All parties are invited to participate in the scoping process by identifying any additional concerns, issues, studies, and alternatives that should be considered. A scoping meeting will be held in Newtok, Alaska, in summer 2005 at a place and time to be announced. The programmatic DEIS is scheduled for release in 2007.

**Guy R. McConnell,**

*Chief, Environmental Resources Section.*

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**BILLING CODE 3710-NL-M**

## ELECTION ASSISTANCE COMMISSION

### Proposed Voluntary Guidance on Implementation of Statewide Voter Registration Lists

**AGENCY:** United States Election Assistance Commission (EAC).

**ACTION:** Notice; proposed guidance and request for comments.

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

**DATES:** Submit written or electronic comments on this draft guidance on or before 5 p.m. e.d.t. on May 25, 2005.

**ADDRESSES:** Send comments to Juliet Thompson, General Counsel, via mail to U.S. Election Assistance Commission, 1225 New York Avenue, Suite 1100, Washington, DC 20005; via fax to 202-566-1392; or via e-mail to *guidance@eac.gov*. An electronic copy of the proposed guidance may be found on the EAC's Web site: *http://www.eac.gov*.

**FOR FURTHER INFORMATION CONTACT:**

Juliet Thompson, General Counsel, Washington, DC, (202) 566-3100, Fax: (202) 566-1392.

### Proposed Voluntary Guidance on Implementation of Statewide Voter Registration Lists

#### *I. Introduction*

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

The details of implementing these statewide voter registration lists were left to the States. However, Congress authorized the United States Election Assistance Commission (EAC) to issue voluntary guidance to assist the States with interpreting and implementing the provisions of HAVA as they relate to the requirement for a statewide voter

registration list. It is important to note, however, that the EAC does not have legal authority to interpret HAVA beyond providing voluntary guidance in assisting States and local governments to meet the requirements of HAVA. The civil enforcement of Title III of HAVA is expressly assigned to the United States Department of Justice (DOJ).

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

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

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

The following guidance on statewide voter registration lists is restricted to issues of policy related to the development and implementation of a single, uniform, official, centralized interactive computerized statewide voter registration list. EAC and the working group of state and local election officials will continue to explore technical issues related to the

maintenance and upgrade of these database systems, with assistance from the National Academies. Additional guidance and/or best practices related to these technology issues will be developed, presented for comment, and adopted in the coming months.

## II. Scope and Definitions

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

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

2. Who would benefit from this guidance?

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

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

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

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

No. Nothing in this guidance should be construed to alter, interpret or effect, in any way whatsoever, the requirements of the National Voter Registration Act of 1993, including requirements and timeframes with respect to the administration of voter registration and/or the process States must follow in removing names of registrants from the voting rolls.

5. Who is a local election official?

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

voters in his/her voter registration jurisdiction.

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

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

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

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

## III. Guidance on Statewide Voter Registration Lists

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

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

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

At a minimum, the statewide voter registration list should be synchronized with local voter registration databases at least once every 24 hours to assure that the statewide voter registration list

contains the names and registration information for all legally registered voters in the State and that local election officials throughout the State have immediate electronic access to such information, as appropriate.

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

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

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

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

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

At a minimum, local election officials must have immediate electronic access to the statewide voter registration list. This means that the local official must have access through some electronic connection to the official statewide voter registration list when needed to process voter registrations, assist voters, input or change data, or determine eligibility of an individual to vote. The level of access given to each user should be appropriate to the function of the user and should be established collaboratively by the State and local election officials. However, all voter registration information obtained by any local election official must be electronically entered into the statewide voter registration list on an expedited basis at the time the information is provided to the local official.

Dated: April 12, 2005.

**Gracia Hillman,**

*Chair, Election Assistance Commission.*

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## DEPARTMENT OF ENERGY

[Docket No. EA-302]

### Application To Export Electric Energy; Duke Energy Marketing America, L.L.C.

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Duke Energy Marketing America, L.L.C. (DEMA) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests or requests to intervene must be submitted on or before May 18, 2005.

**ADDRESSES:** Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Systems (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-287-5736).

**FOR FURTHER INFORMATION CONTACT:** Xavier Puslowski (Program Office) 202-586-4708 or Michael Skinker (Program Attorney) 202-586-2793.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 23, 2005, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from DEMA to transmit electric energy from the United States to Canada. DEMA is wholly owned by Duke Energy North America, LLC (a subsidiary of Duke Energy Corporation). DEMA does not own, operate or control any electric power generation, transmission or distribution facilities. DEMA has requested an electricity export authorization with a 5-year term. The electric energy which DEMA proposes to export to Canada would be purchased from electric utilities and Federal power marketing agencies within the U.S.

DEMA proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International

Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power/Excel, Vermont Electric Power Company and Vermont Electric Transmission Company.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by DEMA, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

*Procedural Matters:* Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the DEMA application to export electric energy to Canada should be clearly marked with Docket EA-302. Additional copies are to be filed directly with Gordon J. Smith, John & Hengerer, 1200 17th Street, NW., Suite 600, Washington, DC 20036-3013 and David W. Wright, Duke Energy Marketing America, L.L.C., 5400 Westheimer Ct., Houston, Texas 77056.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home page at <http://www.fe.de.gov>. Upon reaching the Fossil Energy home page, select "Electricity Regulation," and then "Pending Procedures" from the options menus.

Issued in Washington, DC, on April 12, 2005.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Fossil Energy.*

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