

**§ 1973ff-2. Federal write-in absentee ballot in general elections for Federal office for absent uniformed services voters and overseas voters**

**(a) In general**

**(1) Federal write-in absentee ballot**

The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States,<sup>1</sup> absentee ballots.

**(2) Promotion and expansion of use of Federal write-in absentee ballots**

**(A) In general**

Not later than December 31, 2011, the Presidential designee shall adopt procedures to promote and expand the use of the Federal write-in absentee ballot as a back-up measure to vote in elections for Federal office.

**(B) Use of technology**

Under such procedures, the Presidential designee shall utilize technology to implement a system under which the absent uniformed services voter or overseas voter may—

(i) enter the address of the voter or other information relevant in the appropriate jurisdiction of the State, and the system will generate a list of all candidates in the election for Federal office in that jurisdiction; and

(ii) submit the marked Federal write-in absentee ballot by printing the ballot (including complete instructions for submitting the marked Federal write-in absentee ballot to the appropriate State election official and the mailing address of the single State office designated under section 1973ff-1(b) of this title).

**(C) Authorization of appropriations**

There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this paragraph.

**(b) Submission and processing**

Except as otherwise provided in this subchapter, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an absent uniformed services voter or overseas voter shall not be counted—

(1) in the case of a ballot submitted by an overseas voter who is not an absent uniformed services voter, if the ballot is submitted from any location in the United States;

(2) if the application of the absent uniformed services voter or overseas voter for a State absentee ballot is received by the appropriate State election official after the later of—

(A) the deadline of the State for receipt of such application; or

(B) the date that is 30 days before the general election; or

(3) if a State absentee ballot of the absent uniformed services voter or overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

**(c) Special rules**

The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the absent uniformed services voter or overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

**(d) Second ballot submission; instruction to absent uniformed services voter or overseas voter**

An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

**(e) Use of approved State absentee ballot in place of Federal write-in absentee ballot**

The Federal write-in absentee ballot shall not be valid for use in a general, special, primary, or runoff election for Federal office if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to absent uniformed services voters and overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

**(f) Prohibiting refusal to accept ballot for failure to meet certain requirements**

A State shall not refuse to accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

(1) Notarization requirements.

(2) Restrictions on paper type, including weight and size.

(3) Restrictions on envelope type, including weight and size.

**(g) Certain States exempted**

A State is not required to permit use of the Federal write-in absentee ballot, if, on and after

<sup>1</sup> So in original. Probably should be "States".

August 28, 1986, the State has in effect a law providing that—

(1) a State absentee ballot is required to be available to any voter described in section 1973ff-6(5)(A) of this title at least 90 days before the general, special, primary, or runoff election for Federal office involved; and

(2) a State absentee ballot is required to be available to any voter described in section 1973ff-6(5)(B) or (C) of this title, as soon as the official list of candidates in the general, special, primary, or runoff election for Federal office is complete.

(Pub. L. 99-410, title I, §103, Aug. 28, 1986, 100 Stat. 925; Pub. L. 108-375, div. A, title V, §566(c), (d), Oct. 28, 2004, 118 Stat. 1919; Pub. L. 111-84, div. A, title V, §§581(a)(1), (b), 582(b), Oct. 28, 2009, 123 Stat. 2326, 2327; Pub. L. 111-383, div. A, title X, §1075(d)(3), Jan. 7, 2011, 124 Stat. 4372.)

#### AMENDMENTS

2011—Subsec. (g). Pub. L. 111-383 amended Pub. L. 111-84, §581(a)(1)(C). See 2009 Amendment note below.

2009—Subsec. (a). Pub. L. 111-84, §581(b), substituted “In general” for “In General” in subsec. (a) heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Pub. L. 111-84, §581(a)(1)(A), substituted “general, special, primary, and runoff elections for Federal office” for “general elections for Federal office”.

Subsec. (e). Pub. L. 111-84, §581(a)(1)(B), substituted “a general, special, primary, or runoff election for Federal office” for “a general election” in introductory provisions.

Subsec. (f). Pub. L. 111-84, §582(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 111-84, §582(b)(1), redesignated subsec. (f) as (g).

Pub. L. 111-84, §581(a)(1)(C), as amended by Pub. L. 111-383, substituted “the general, special, primary, or runoff election for Federal office” for “the general election” in pars. (1) and (2).

2004—Pub. L. 108-375, §566(d)(1), substituted “Federal write-in absentee ballot in general elections for Federal office for absent uniformed services voters and overseas voters” for “Federal write-in absentee ballot for overseas voters in general elections for Federal office” in section catchline.

Subsec. (a). Pub. L. 108-375, §566(c)(1), substituted “absent uniformed services voters and overseas voters” for “overseas voters”.

Subsec. (b). Pub. L. 108-375, §566(c)(2), inserted second sentence and struck out former second sentence which read as follows: “A Federal write-in absentee ballot of an overseas voter shall not be counted—

“(1) if the ballot is submitted from any location in the United States;

“(2) if the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

“(3) if a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.”

Subsec. (c)(1). Pub. L. 108-375, §566(c)(3), substituted “absent uniformed services voter or overseas voter” for “overseas voter”.

Subsec. (d). Pub. L. 108-375, §566(c)(4), (d)(2), substituted “absent uniformed services voter or overseas voter” for “overseas voter” in heading and two places in text.

Subsec. (e)(2). Pub. L. 108-375, §566(c)(5), substituted “absent uniformed services voters and overseas voters” for “overseas voters”.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section

1075(d)(3) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111-84 as enacted.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title V, §581(a)(2), Oct. 28, 2009, 123 Stat. 2326, provided that: “The amendments made by this subsection [amending this section] shall take effect on December 31, 2010, and apply with respect to elections for Federal office held on or after such date.”

Amendment by section 582(b) of Pub. L. 111-84 applicable with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office, see section 582(c) of Pub. L. 111-84, set out as a note under section 1973ff-1 of this title.

### § 1973ff-2a. Procedures for collection and delivery of marked absentee ballots of absent overseas uniformed services voters

#### (a) Establishment of procedures

The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and the Federal write-in absentee ballot prescribed under section 1973ff-2 of this title, and for delivering such marked absentee ballots to the appropriate election officials.

#### (b) Delivery to appropriate election officials

##### (1) In general

Under the procedures established under this section, the Presidential designee shall implement procedures that facilitate the delivery of marked absentee ballots of absent overseas uniformed services voters for regularly scheduled general elections for Federal office to the appropriate election officials, in accordance with this section, not later than the date by which an absentee ballot must be received in order to be counted in the election.

##### (2) Cooperation and coordination with the United States Postal Service

The Presidential designee shall carry out this section in cooperation and coordination with the United States Postal Service, and shall provide expedited mail delivery service for all such marked absentee ballots of absent uniformed services voters that are collected on or before the deadline described in paragraph (3) and then transferred to the United States Postal Service.

##### (3) Deadline described

###### (A) In general

Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the seventh day preceding the date of the regularly scheduled general election for Federal office.

###### (B) Authority to establish alternative deadline for certain locations

If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential