

No. \_\_\_\_

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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SUSAN BEALS, IN HER OFFICIAL CAPACITY AS VIRGINIA COMMISSIONER OF ELECTIONS;  
JOHN O'BANNON, IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF THE STATE BOARD OF  
ELECTIONS; ROSALYN R. DANCE, IN HER OFFICIAL CAPACITY AS VICE-CHAIRMAN OF  
THE STATE BOARD OF ELECTIONS; GEORGIA ALVIS-LONG, IN HER OFFICIAL CAPACITY  
AS SECRETARY OF THE STATE BOARD OF ELECTIONS; DONALD W. MERRICKS, IN HIS  
OFFICIAL CAPACITY AS A MEMBER OF THE STATE BOARD OF ELECTIONS; MATTHEW  
WEINSTEIN, IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE STATE BOARD OF ELEC-  
TIONS; JASON MIYARES, IN HIS OFFICIAL CAPACITY AS VIRGINIA ATTORNEY GENERAL;  
COMMONWEALTH OF VIRGINIA; VIRGINIA STATE BOARD OF ELECTIONS,  
*Applicants,*

v.

VIRGINIA COALITION FOR IMMIGRANT RIGHTS; LEAGUE OF WOMEN VOT-  
ERS OF VIRGINIA; LEAGUE OF WOMEN VOTERS OF VIRGINIA EDUCATION  
FUND; AFRICAN COMMUNITIES TOGETHER; UNITED STATES OF AMERICA  
*Respondents.*

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**APPENDIX TO EMERGENCY APPLICATION FOR STAY**

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To the Honorable John G. Roberts, Jr.  
Chief Justice of the Supreme Court of the United States and  
Circuit Justice for the Fourth Circuit

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FILED: October 27, 2024

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 24-2071  
(1:24-cv-01778-PTG-WBP)  
(1:24-cv-01807-PTG-WBP)

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VIRGINIA COALITION FOR IMMIGRANT RIGHTS; LEAGUE OF WOMEN  
VOTERS OF VIRGINIA; LEAGUE OF WOMEN VOTERS OF VIRGINIA  
EDUCATION FUND; AFRICAN COMMUNITIES TOGETHER; UNITED STATES  
OF AMERICA

Plaintiffs - Appellees

v.

SUSAN BEALS, in her official capacity as Virginia Commissioner of Elections; JOHN  
O'BANNON, in his official capacity as Chairman of the State Board of Elections;  
ROSALYN R. DANCE, in her official capacity as Vice-Chairman of the State Board of  
Elections; GEORGIA ALVIS-LONG, in her official capacity as Secretary of the State  
Board of Elections; DONALD W. MERRICKS, in his official capacity as a member of  
the State Board of Elections; MATTHEW WEINSTEIN, in his official capacity as a  
member of the State Board of Elections; JASON MIYARES, in his official capacity as  
Virginia Attorney General; COMMONWEALTH OF VIRGINIA; VIRGINIA STATE  
BOARD OF ELECTIONS

Defendants - Appellants.

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O R D E R

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Appellants' motion for a stay of the district court's preliminary injunction pending  
appeal is DENIED in all respects except for paragraph 7 of the district court's order, where  
it is GRANTED. Appellants' request for an administrative stay is denied as moot.

Appellants have not shown they are likely to prevail in their appeal from the district court's preliminary injunction. Despite having made various justiciability and sovereign immunity arguments before the district court, appellants drop all such claims before us.\* Instead, appellants argue the challenged conduct does not violate the National Voter Registration Act (NVRA). Like the district court, we are unpersuaded.

The NVRA's Quiet Period Provision requires that any state "program" whose purpose "is to systematically remove the names of ineligible voters from the official lists of eligible voters" based on the failure to meet eligibility requirements must halt "not later than 90 days prior to" any election for federal office. 52 U.S.C. § 20507(c)(2)(A). Appellants have not denied that the challenged conduct constitutes a "program" before either the district court or this one. And, like the district court, we conclude the challenged program "most certainly is" systematic. ECF 11-1, at A-463. A process is systematic if it uses a "mass computerized data-matching process" to identify and confirm names for removal without "individualized information or investigation." *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014). Here, the challenged program does not require communication with or particularized investigation into any specific individual. Rather, the

\* We have considered and confirmed that appellees have standing to seek the preliminary injunction granted by the district court. See *City of Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983) (holding that standing analysis must be conducted on a remedy-by-remedy basis). The federal government has standing to seek remedies for violations of federal statutes (like this one) that provide it with a right of action, see 52 U.S.C. § 20510(a), and "the presence of one party with standing is sufficient to satisfy Article III's case-or-controversy requirement." *Rumsfeld v. F. for Acad. & Institutional Rts., Inc.*, 547 U.S. 47, 52 n.2 (2006).

inclusion of a person's name on a list electronically compared to other agency databases is enough for removal from the voter rolls.

Appellants respond that “[t]he Quiet Period Provision does not cover noncitizens at all,” so even the most systematic efforts to remove noncitizens from voter registration lists within 90 days of a federal election are immune from judicial scrutiny. ECF 11-1, at 14. That argument violates basic principles of statutory construction by focusing on a differently worded statutory provision that is not at issue here and proposing a strained reading of the Quiet Period Provision to avoid rendering that other provision absurd or unconstitutional. That is not how courts interpret statutes.

Appellants' proposed interpretation also creates new problems. First, it renders language in the Quiet Period Provision superfluous by collapsing the distinction between “voters” and “eligible voters.” 52 U.S.C. § 20507(c)(2)(A); see, e.g., *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 258 (1993) (“We will not read the statute to render the modifier superfluous.”). Second, it requires reading different words in different provisions of the NVRA—“voters” in subsection (c)(2)(A) and “registrant” in subsection (a)(3)—as having the same meaning. See, e.g., *Sosa v. Alvarez-Machain*, 542 U.S. 692, 711 n.9 (2004) (“[W]hen the legislature uses certain language in one part of the statute and different language in another, the court assumes different meanings were intended.” (quotation marks removed)). Finally, appellants' proposed interpretation appears to violate another bedrock principle of statutory interpretation—this time, the plain-meaning rule—by reading “registrant” in subsection (a)(3) as meaning something other than “one that registers or is registered” to vote. *Registrant*, Merriam-Webster, <https://www.merriam->

webster.com/dictionary/registant [perma.cc/QF9U-RRTA]. “Better, we think, to stick with the language of” the provision before us, *Allen v. Atlas Box & Crating Co.*, 59 F.4th 145, 151 (4th Cir. 2023), while leaving questions about other provisions for another day.

Appellants’ remaining arguments fare no better. Appellants err in asserting that the district court ordered them to “restore approximately 1,600 noncitizens to the voter rolls.” ECF 11-1, at 9. What the district court actually found was that “neither the Court nor the parties . . . know” that the people “removed from” the voter rolls under the challenged program “were, in fact, noncitizens,” and that at least some “eligible citizens . . . have had their registrations canceled and were unaware that this was even so.” ECF 11-1, at A-471, A-472; accord ECF 18-1, at 1–3 (private appellees recounting evidence of citizens eligible to vote being removed from voter rolls); Transcript of Motion Hearing at 13, *Ala. Coal. for Immigrant Just. v. Allen*, No. 2:24-cv-01254 (N.D. Ala. Oct. 16, 2024) (different district court finding that similar program led to more than 2,000 eligible voters mistakenly being declared ineligible to vote and inaccurately referred for criminal investigation). Appellants’ motion does not acknowledge these factual findings (much less attempts to show they are clearly erroneous), and any casual suggestion to that effect in appellants’ reply brief is too little and comes too late to preserve such an argument for our consideration. See ECF 21, at 7; *Grayson O Co. v. Agadir Int’l LLC*, 856 F.3d 307, 316 (4th Cir. 2017).

The district court also did not err in concluding there was no unreasonable delay in bringing suit. Rather, the private appellees “engaged in communications and discussions” to obtain records from the appellants beginning less than a week after the challenged executive order issued and “continuing through September.” ECF 11-1, at A-470; see *id.* at

A-358 (private appellees representing they first reached out to appellants six days after the challenged executive order). Appellees then filed suit on the first day they could do so without waiting another 20 days before proceeding. See 52 U.S.C. § 20510(b).

Additionally, the district court did not violate the *Purcell* principle. See generally *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam). That “important principle of judicial restraint” protects the ability of “[l]awmakers” to “make a host of difficult decisions about how best to structure and conduct [an] election,” without interference to their “carefully considered and democratically enacted state election rules” right before an election. *Democratic Nat’l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (mem.) (Kavanaugh, J., concurring in denial of application to vacate stay). But appellees do not challenge a state election law. Instead, they challenge the implementation of an executive order that was itself issued 44 days before the start of early voting and only 90 days before the end of the election. What is more, the statute under which appellees have sued (the NVRA) imposes limits that apply only within the immediate period before an election and expressly contemplates suits filed “within 30 days before the date of an election for Federal office.” 52 U.S.C. § 20510(b)(3).

Appellants’ claims of irreparable injury absent a stay are weak. Under the preliminary injunction, appellants remain able to prevent noncitizens from voting by canceling registrations on an individualized basis or prosecuting any noncitizen who votes—options the district court specifically flagged at the hearing and in its written order. See ECF 11-1, at A-467, A-473, A-492. And the district court did not err in concluding that both the balance of the equities and the public interest favor interim equitable relief that



gives full force and effect to a federal law that functions to prevent last-minute voter registration purges and to ensure that people who are legally entitled to vote are not prevented from doing so by faulty databases or bureaucratic mistakes. See *Arcia*, 772 F.3d at 1346 (noting that, during the 90-day quiet period, “the calculus changes” in favor of avoiding incorrectly removing eligible voters).

We reach a different conclusion solely as to paragraph 7 of the district court’s remedial order. Federal Rule of Civil Procedure 65(d)(1) requires that “[e]very order granting an injunction . . . describe in reasonable detail . . . the act or acts restrained or required.” And injunctions in the period before an election impose heightened burdens on state officials where the injunction is difficult to “understand” and “implement.” *Democratic Nat’l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring in denial of application to vacate stay). While we appreciate the district court’s careful work under substantial time constraints, we conclude that paragraph 7 of the preliminary injunction is not sufficiently clear as to its scope and risks undue confusion in its implementation. We thus stay the portion of the district court’s order requiring the appellants “and their agents” to “educate local officials, poll workers, and the general public” about the impact of the district court’s order, including by “tracking of poll worker training in all 95 counties and independent cities in the Commonwealth.” ECF 11-1, at A-492.

Entered at the direction of Judge Heytens with the concurrence of Chief Judge Diaz and Judge Thacker.

For the Court

/s/ Nwamaka Anowi, Clerk

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

VIRGINIA COALITION FOR	)	
IMMIGRANT RIGHTS, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	Civil Action No. 1:24-cv-1778 (PTG/WBP)
	)	
SUSAN BEALS,	)	
<i>in her official capacity as Virginia</i>	)	
<i>Commissioner of Elections, et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

\*\*\*

UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil Action No. 1:24-cv-1807 (PTG/WBP)
	)	
COMMONWEALTH OF VIRGINIA, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**ORDER**

This matter is before the Court on Motions for Preliminary Injunction (Dkt. 26; Civil Action No. 1:24-cv-1807, Dkt. 9) filed by the Virginia Coalition for Immigrant Rights, the League of Women Voters of Virginia, the League of Women Voters of Virginia Education Fund, African Communities Together, and the United States (“Plaintiffs”).

To receive a preliminary injunction, Plaintiffs bear the burden of establishing: (1) they are likely to succeed on the merits of the case; (2) they are likely to suffer irreparable harm in the

absence of injunctive relief; (3) the balance of equities tips in their favor; and (4) an injunction would be in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Roe v. Dept. of Defense*, 947 F.3d 207, 219 (4th Cir. 2020).

For the reasons stated in open court, the Court finds that Plaintiffs have established the four elements of the *Winter* test for preliminary injunctive relief.

Accordingly, it is hereby

1. **ORDERED** that Plaintiffs’ Motions for Preliminary Injunction (Dkt. 26; Civil Action No. 1:24-cv-1807, Dkt. 9) are **GRANTED in part** and **DENIED in part**; it is further

2. **ORDERED** that the Commonwealth of Virginia, the Virginia State Board of Elections, and Susan Beals, John O’Bannon, Rosalyn Dance, Georgia Alvis-Long, Donald Merricks, and Matthew Weinstein in their official capacities (“Defendants”), along with their agents, are enjoined from continuing any systematic program intended to remove the names of ineligible voters from registration lists less than 90 days before the November 5, 2024, federal General Election, although this does not preclude removal of names from the official list of voters at the request of the registrant, by reason of criminal conviction or mental incapacity (as provided by Virginia law), individual correction, or by reason of the death of the registrant; and it is further

3. **ORDERED** that Defendants and their agents restore voter registration of registrants cancelled pursuant to Defendants’ Program after August 7, 2024, unless the registrant (1) subsequently submits a voter removal request, or (2) is subject to removal by reason of criminal conviction or mental incapacity (as provided by Virginia law), or by reason of the death of the registrant; it is further

4. **ORDERED** that within five (5) days of this Order, Defendants and their agents issue guidance to county registrars in every local jurisdiction in Virginia to immediately restore

the voter registration records of registrants removed pursuant to Defendants' Program, so long as those individuals (1) did not subsequently submit a voter removal request, or (2) are not subject to removal by reason of criminal conviction or mental incapacity (as provided by Virginia law), or by reason of the death of the registrant; it is further

5. **ORDERED** that within five (5) days of this Order, Defendants and their agents provide a remedial mailing to each registrant described in Paragraph 3:

- a. Informing the registrant that their voter registration has been restored to the voter rolls;
- b. Explaining that the registrant may cast a regular ballot on Election Day in the same manner as other eligible voters;
- c. Advising the registrant that cancellation of their registration pursuant to the purported noncitizen removal program after August 7, 2024, does not in itself establish that they are ineligible to vote or subject to criminal prosecution or any other penalty for registering to vote or for voting; and
- d. Advising registrants who are not U.S. citizens that they remain ineligible to cast a ballot in Virginia elections; it is further

6. **ORDERED** that within five (5) days of this Order, Defendants and their agents shall:

- a. Post template copies of the remedial mailing described in Paragraph 5, along with a copy of this Order, on the website of the Virginia Department of Elections; and
- b. Issue a press release in the customary manner of the Department of Elections that announces this Court's Order; it is further

7. **ORDERED** that within five (5) days of this Order, Defendants and their agents make all reasonable and practicable efforts to educate local officials, poll workers, and the general public on Defendants' program, the restoration of the voter registrations of impacted voters, and the ability of impacted voters to cast a regular ballot without submitting supplemental paperwork or documentation. Such efforts shall include the tracking of poll worker training in all 95 counties and independent cities in the Commonwealth concerning cessation of the purported noncitizen removal program and the remedial actions required by this Order; it is further

8. **ORDERED** that within five (5) days of this Order, Defendants shall submit to this Court under seal a report detailing every voter registration cancelled on or after August 8, 2024, to the present. That report shall include the voter's full name (including first, middle, and last names and any suffixes), address, voter identification number, social security number (if available), driver's license number (if available), date of voter registration, date of cancellation, and reason for cancellation; it is further

9. **ORDERED** that Defendants' authority or ability to cancel the voter registration of noncitizens through individualized review is not limited by this Order. Nor does this Order limit Defendants' authority or ability to investigate noncitizens who register to vote or who vote in Virginia's elections. The preliminary injunction applies only to Defendants' systematic Program which occurred after August 7, 2024; it is further

10. **ORDERED** that the Motions for Preliminary Injunction (Dkt. 26; Civil Action No. 1:24-cv-1807, Dkt. 9) are **DENIED** in all other respects; and it is further

11. **ORDERED** that this injunction expires on the day after the 2024 General Election.

Entered this 25th day of October, 2024.  
Alexandria, Virginia

  
\_\_\_\_\_  
Patricia Tolliver Giles  
United States District Judge

**Section 20501 of Chapter 52 of the United States Code  
Findings and Purposes**

**(a) Findings**

The Congress finds that--

- (1) the right of citizens of the United States to vote is a fundamental right;
- (2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and
- (3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

**(b) Purposes**

The purposes of this chapter are--

- (1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;
- (2) to make it possible for Federal, State, and local governments to implement this chapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;
- (3) to protect the integrity of the electoral process; and
- (4) to ensure that accurate and current voter registration rolls are maintained.

**Section 20503 of Chapter 52 of the United States Code**  
**National procedures for voter registration for elections for Federal office**

**(a) In general**

Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office--

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 20504 of this title;

(2) by mail application pursuant to section 20505 of this title; and

(3) by application in person--

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 20506 of this title.

**(b) Nonapplicability to certain States**

This chapter does not apply to a State described in either or both of the following paragraphs:

(1) A State in which, under law that is in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which, under law that is in effect continuously on and after August 1, 1994, or that was enacted on or prior to August 1, 1994, and by its terms is to come into effect upon the enactment of this chapter, so long as that law remains in effect, all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

**Section 20507 of Chapter 52 of the United States Code  
Requirements with respect to administration of voter registration**

**(a) In general**

In the administration of voter registration for elections for Federal office, each State shall--

- (1) ensure that any eligible applicant is registered to vote in an election--
  - (A) in the case of registration with a motor vehicle application under section 20504 of this title, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;
  - (B) in the case of registration by mail under section 20505 of this title, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;
  - (C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and
  - (D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;
- (2) require the appropriate State election official to send notice to each applicant of the disposition of the application;
- (3) provide that the name of a registrant may not be removed from the official list of eligible voters except--
  - (A) at the request of the registrant;
  - (B) as provided by State law, by reason of criminal conviction or mental incapacity; or
  - (C) as provided under paragraph (4);
- (4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of--



- (A) the death of the registrant; or
  - (B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);
- (5) inform applicants under sections 20504, 20505, and 20506 of this title of--
- (A) voter eligibility requirements; and
  - (B) penalties provided by law for submission of a false voter registration application; and
- (6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

**(b) Confirmation of voter registration**

Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office--

- (1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.)<sup>1</sup>; and
- (2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote, except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual--
  - (A) has not either notified the applicable registrar (in person or in writing) or responded during the period described in subparagraph (B) to the notice sent by the applicable registrar; and then
  - (B) has not voted or appeared to vote in 2 or more consecutive general elections for Federal office.

**(c) Voter removal programs**

- (1) A State may meet the requirement of subsection (a)(4) by establishing a program under which--
  - (A) change-of-address information supplied by the Postal Service through

its licensees is used to identify registrants whose addresses may have changed; and

**(B)** if it appears from information provided by the Postal Service that--

**(i)** a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

**(ii)** the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

**(2)(A)** A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

**(B)** Subparagraph (A) shall not be construed to preclude--

**(i)** the removal of names from official lists of voters on a basis described in paragraph (3)(A) or (B) or (4)(A) of subsection (a); or

**(ii)** correction of registration records pursuant to this chapter.

**(d) Removal of names from voting rolls**

**(1)** A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant--

**(A)** confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

**(B)(i)** has failed to respond to a notice described in paragraph (2); and

**(ii)** has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

**(2)** A notice is described in this paragraph if it is a postage prepaid and pre-

addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

**(A)** If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

**(B)** If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

**(3)** A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

**(e) Procedure for voting following failure to return card**

**(1)** A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

**(2)(A)** A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant--

**(i)** shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

**(ii)(I)** shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central

location; or

**(II)** shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

**(B)** If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(i) or (A)(ii)(II), voting at the other locations described in subparagraph

(A) need not be provided as options.

**(3)** If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

**(f) Change of voting address within a jurisdiction**

In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

**(g) Conviction in Federal court**

**(1)** On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 20509 of this title of the State of the person's residence.

**(2)** A notice given pursuant to paragraph (1) shall include--

**(A)** the name of the offender;

**(B)** the offender's age and residence address;

**(C)** the date of entry of the judgment;

**(D)** a description of the offenses of which the offender was convicted; and

**(E)** the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

**(h) Omitted**

**(i) Public disclosure of voter registration activities**

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

**(j) "Registrar's jurisdiction" defined**

For the purposes of this section, the term "registrar's jurisdiction" means--

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

**Section 24.2-410.1 of the Code of Virginia**  
**Citizenship status; Department of Motor Vehicles to furnish lists of**  
**noncitizens.**

A. The Department of Motor Vehicles shall include on the application for any document, or renewal thereof, issued pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 a statement asking the applicant if he is a United States citizen. Information on citizenship status shall not be a determinative factor for the issuance of any document pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2.

The Department of Motor Vehicles shall furnish monthly to the Department of Elections a complete list of all persons who have indicated a noncitizen status to the Department of Motor Vehicles in obtaining any document, or renewal thereof, issued pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2. The Department of Elections shall transmit the information from the list to the appropriate general registrars. Information in the lists shall be confidential and available only for official use by the Department of Elections and general registrars.

B. For the purposes of this section, the Department of Motor Vehicles is not responsible for verifying the claim of any applicant who indicates United States citizen status when applying for any document, or renewal thereof, issued pursuant to the provisions of Chapter 3 (§ 46.2-300 et seq.) of Title 46.2.

**Section 24.2-427 of the Code of Virginia**  
**Cancellation of registration by voter or for persons known to be deceased**  
**or disqualified to vote.**

A. Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least 22 days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within 10 days of receipt of such authorization.

B. The general registrar shall promptly cancel the registration of (i) all persons known by him to be deceased; (ii) all persons known by him to be disqualified to vote by reason of a felony conviction or adjudication of incapacity; (iii) all persons known by him not to be United States citizens by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404 and in accordance with the requirements of subsection C; (iv) all persons for whom a notice has been received, signed by the voter, or from the registration official of another jurisdiction that the voter has moved from the Commonwealth; and (v) all persons for whom a notice has been received, signed by the voter, or from the registration official of another jurisdiction that the voter has registered to vote outside the Commonwealth, subsequent to his registration in Virginia. The notice received in clauses (iv) and (v) shall be considered as a written request from the voter to have his registration cancelled. A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered. The general registrar shall provide notice of any cancellation to the person whose registration is cancelled, by mail to the address listed in the voter's registration record and by email to the email address provided on the voter's registration application, if one was provided.

C. The general registrar shall mail notice promptly to all persons known by him not to be United States citizens by reason of a report from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404 prior to cancelling their registrations. The notice shall inform the person of the report from the Department of Motor Vehicles or from the Department of Elections and allow the person to submit his sworn statement that he is a United States citizen within 14 days of the date that the notice was mailed. The general registrar shall cancel the

registrations of such persons who do not respond within 14 days to the notice that they have been reported not to be United States citizens.

D. The general registrar shall (i) process the Department's most recent list of persons convicted of felonies within 21 to 14 days before any primary or general election, (ii) cancel the registration of any registered voter shown to have been convicted of a felony who has not provided evidence that his right to vote has been restored, and (iii) send prompt notice to the person of the cancellation of his registration. If it appears that any registered voter has made a false statement on his registration application with respect to his having been convicted of a felony, the general registrar shall report the fact to the attorney for the Commonwealth for prosecution under § 24.2-1016 for a false statement made on his registration application.

E. The general registrar may cancel the registration of any person for whom a notice has been submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18 (§ 46.2-483 et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most recently been registered in Virginia. No general registrar may cancel registrations under this authority while the registration records are closed pursuant to § 24.2-416. No registrar may cancel the registration under this authority of any person entitled to register under the provisions of subsection A of § 24.2-420.1, and shall reinstate the registration of any otherwise qualified voter covered by subsection A of § 24.2-420.1 who applies to vote within four years of the date of cancellation.



**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

VIRGINIA COALITION FOR IMMIGRANT RIGHTS; LEAGUE OF WOMEN VOTERS OF VIRGINIA; LEAGUE OF WOMEN VOTERS OF VIRGINIA EDUCATION FUND; AFRICAN COMMUNITIES TOGETHER,

*Plaintiffs,*

v.

SUSAN BEALS, in her official capacity as Virginia Commissioner of Elections; JOHN O'BANNON, in his official capacity as Chairman of the State Board of Elections; ROSALYN R. DANCE, in her official capacity as Vice-Chairman of the State Board of Elections; GEORGIA ALVIS-LONG, in her official capacity as Secretary of the State Board of Elections; DONALD W. MERRICKS and MATTHEW WEINSTEIN, in their official capacities as members of the State Board of Elections; and JASON MIYARES, in his official capacity as Virginia Attorney General,

*Defendants.*

Case No. 1:24-cv-01778  
Judge Patricia Tolliver Giles

**PLAINTIFFS' OPPOSED MOTION  
FOR PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs Virginia Coalition for Immigrant Rights, African Communities Together, League of Women Voters of Virginia Education Fund, and League of Women Voters of Virginia hereby move for a preliminary injunction seeking the

following relief:

1. An Order Barring Defendants Beals, O'Bannon, Dance, Alvis-Long, Merricks, Weinstein, and Miyares from violating the National Voter Registration Act of 1993 ("NVRA") by purging registered voters within 90 days of an election and subjecting voters to a discriminatory and non-uniform removal system; and

2. An Order providing injunctive relief to remedy Defendants' violations of the NVRA as described in Plaintiffs' Proposed Order.

Plaintiffs' request for such relief relies upon their Memorandum of Law in support of this motion that is filed contemporaneously herewith, along with Plaintiffs' Proposed Order.

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*\*Motion for pro hac vice participation  
forthcoming.*

*\*\*Motion for pro hac vice participation  
pending.*

**CERTIFICATE OF SERVICE**

I certify that on October 15, 2024, I electronically filed the above document with the Clerk of Court using the ECF system, which will provide electronic copies to any counsel of record. Plaintiffs' Counsel will also send courtesy copies to attorneys at the Virginia Attorney General's Office who have met with Plaintiffs' counsel regarding this matter.

/s/ Shanna Ports  
Shanna Ports

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF VIRGINIA; VIRGINIA  
STATE BOARD OF ELECTIONS; and SUSAN  
BEALS, in her official capacity as Commissioner  
of Elections,

Defendants.

Case No. 24-cv-01807

**OPPOSED MOTION FOR A PRELIMINARY INJUNCTION**

Plaintiff United States of America (“United States”), pursuant to Rule 65 of the Federal Rules of Civil Procedure, moves for entry of a preliminary injunction to remedy violations of the Quiet Period Provision, Section 8(c)(2) of the National Voter Registration Act, 52 U.S.C. § 20507(c)(2). On October 11, 2024, the United States filed a complaint in this Court alleging violations of the Quiet Period Provision arising from the ongoing implementation by the Commonwealth of Virginia, the Virginia State Board of Elections, and Susan Beals in her official capacity as the Commissioner of Elections (Virginia Defendants) of a “program” with “the purpose of . . . systematically remov[ing] the names of ineligible voters from the official lists of eligible voters” within 90 days of the November 5 federal General Election. 52 U.S.C. § 20507(c)(2)(A). Specifically, the Virginia Defendants violated the Quiet Period Provision by continuing to implement, pursuant to the Virginia Governor’s Executive Order 35, a program intended to remove the names of ineligible voters from registration lists based on failure to meet initial eligibility requirements less than 90 days before a general election for federal office.

In support of its motion, the United States asserts that (1) it is substantially likely to prevail on the merits of its claim under the Quiet Period Provision, (2) unless enjoined, the Virginia Defendants' continued violation of the Quiet Period provision will irreparably harm the United States and qualified U.S. citizen Virginia voters, (3) the United States' interest in protecting the rights of qualified U.S. citizen Virginia voters outweighs any burden imposed on the Virginia Defendants, and (4) enjoining the Virginia Defendants' violation of the Quiet Period Provision will serve the public interest.

The basis for the United States' motion is set forth in the accompanying Brief in Support of the United States' Motion for a Preliminary Injunction, as well as supporting evidence. A proposed order also accompanies this filing.

Date: October 16, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2024, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will send notification of this filing to counsel of record. I will send counsel for the state defendants this filing via email.

*/s/ Sejal Jhaveri* \_\_\_\_\_

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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

VIRGINIA COALITION FOR	)	
IMMIGRANT RIGHTS, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	Civil Action No. 1:24-cv-1778 (PTG/WBP)
	)	
SUSAN BEALS,	)	
<i>in her official capacity as Virginia</i>	)	
<i>Commissioner of Elections, et al.</i> ,	)	
<i>Defendants.</i>	)	
	)	

\*\*\*

UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil Action No. 1:24-cv-1807 (PTG/WBP)
	)	
COMMONWEALTH OF VIRGINIA, <i>et al.</i> ,	)	
<i>Defendants.</i>	)	
	)	
	)	

**ORDER**


This matter is before the Court on its own initiative. On October 16, 2024, this Court entered an Order directing the parties in each case, *Virginia Coalition for Immigrant Rights, et al., v. Susan Beals, et al.*, Civil Action No. 1:24-cv-1778 (Dkt. 40), and *United States of America v. Commonwealth of Virginia, et al.*, Civil Action No. 1:24-cv-1807 (Dkt. 7), to show cause by noon on Friday, October 18, 2024, as to why these cases should not be consolidated pursuant to Federal Rule of Civil Procedure 42(a). No party has filed any pleading indicating such cause. Accordingly, it is hereby

**ORDERED** that

- *Virginia Coalition for Immigrant Rights, et al., v. Susan Beals, et al.*, Civil Action No. 1:24-cv-1778, and *United States of America v. Commonwealth of Virginia, et al.*, Civil Action No. 1:24-cv-1807, are consolidated;
- *Virginia Coalition for Immigrant Rights, et al., v. Susan Beals, et al.*, Civil Action No. 1:24-cv-1778 is designated as the lead case. Documents should bear both case numbers and need only be filed in the lead case.

The Clerk is **DIRECTED** to enter this Order on both dockets.

Entered this 18<sup>th</sup> day of October, 2024.  
Alexandria, Virginia

  
\_\_\_\_\_  
Patricia Tolliver Giles  
United States District Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

**Virginia Coalition for Immigrant Rights, )  
et al., )**

**Plaintiffs, )**

**Civil Action No. 1:24-cv-01778**

**v. )**

**Susan Beals, in her official capacity as )  
Virginia Commissioner of Elections, et al., )**

**Defendants.**

**The United States of America, )**

**Plaintiff, )**

**Civil Action No. 1:24-cv-01807**

**v. )**

**The Commonwealth of Virginia, et al., )**

**Defendants. )**

**DEFENDANTS’ OPPOSITION TO PLAINTIFFS’  
MOTIONS FOR PRELIMINARY INJUNCTION**

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## INTRODUCTION

The 2024 presidential election is now 12 days away, and early voting has already commenced in Virginia. Yet the Plaintiffs in these consolidated cases—the United States and an assortment of advocacy organizations (Organizational Plaintiffs)—ask this Court to inject itself into the Commonwealth’s election processes, demanding a preliminary injunction that, among other burdensome measures, orders State and county election officials to place back on the voter rolls people who were recently removed after *identifying themselves as noncitizens* in information they provided to the Virginia Department of Motor Vehicles (DMV).

These self-identified noncitizens were removed pursuant to longstanding Virginia law only after their local registrar sent each one of them notices informing them of the registrar’s information about their noncitizenship status and advising them that they could remain on the voter rolls simply by returning an affirmation of their citizenship in a pre-addressed mailer, a process that the Supreme Court has said is a “simple and easy step” that any “reasonable person with an interest in voting” is likely to follow. *Husted v. A. Phillip Randolph Institute*, 584 U.S. 756, 779 (2018). Only if the individual failed to respond to the notice was her name removed from the rolls. Each individual who failed to respond was then sent a second notice and advising her of the removal, and that if the information was incorrect, the registrar would promptly correct the error.

The Plaintiffs’ motions therefore fail, for the usual rules for granting preliminary injunctive relief, strict in any context, are much stricter when a federal court is being asked to “alter state election laws in the period close to an election,” *DNC v. Wisconsin State Legis.*, 141 S. Ct. 28, 30 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay), and the so-called *Purcell* doctrine is especially strict when, as here, “voting had already begun.” *Id.* at 31. The Plaintiffs can satisfy their burden under *Purcell* only by a clear showing that “(i) the underlying merits are

entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship.” *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring in grant of applications for stay). The Plaintiffs do not come close to satisfying any, let alone all, of these factors.

Plaintiffs purport to invoke the protections of the National Voter Registration Act of 1993, colloquially called the “Motor Voter” law, which sought to “enhance[] the participation of eligible *citizens* as voters in elections for federal office” and at the same time “ensure that accurate and current voter registration rolls are maintained” in every State. 52 U.S.C. § 20501(b) (emphasis added). To achieve its goal of citizen participation, the NVRA directed States to allow prospective voters to register to vote while signing up for a driver’s license or similar permit, and it also imposed certain specific limits on the ability of States to remove previously eligible voters who became ineligible. Specifically, Plaintiffs’ central claim is that Virginia’s recent removal of noncitizens violated the NVRA’s so-called “Quiet Period Provision,” which prohibits states from “systematic[ally]” removing “ineligible voters” from the rolls within 90 days of a federal election, with exceptions for removals based on a voter’s request, a voter’s death, and a voter’s felony conviction or mental incapacity. *Id.* § 20507(c)(2).

Virginia has long complied with the NVRA. The challenged law is no exception, having been enacted in 2006, precleared by the Department of Justice in the same year, and followed by Virginia election officials over multiple presidential and mid-term election cycles, including in the 90-day quiet period, without objection by the Plaintiffs or anyone else. Yet when Governor Youngkin issued an Executive Order reaffirming Virginia’s commitment to following its own

longstanding election laws, the Organizational Plaintiffs, followed by the Department of Justice, sought to enjoin Virginia's reasonable statutory process to ensure that only citizens eligible to vote are on the rolls. And although the 90-day quiet period commenced on August 7, the Plaintiffs did not bring these actions until 60 days had already passed, an unconscionable delay given the imminent approach of the election. This last-minute attempt, premised on fatal factual misunderstandings and legal flaws, to obtain a preliminary injunction only two weeks before the 2024 presidential election must be rejected.

Start with jurisdiction. Plaintiffs have not identified a single injured citizen. Without an actual injured eligible voter, the Organizational Plaintiffs call upon, and stretch, standing theories that have been roundly rejected in this Circuit and the Supreme Court. And because this lawsuit came so late, the Defendants have already ceased their allegedly unlawful removal process, as they always planned to do, which means that there is no ongoing alleged violation that would allow the Organizational Plaintiffs to invoke the *Ex parte Young* exception to the Commonwealth's sovereign immunity in federal court.

Even apart from those hurdles, the NVRA provisions at issue simply do not apply to the removal of noncitizens from the rolls. The plain meaning of the text of the Quiet Period Provision, confirmed by the structure, purpose, and legislative history of the NVRA, demonstrates that there are no temporal restrictions on when States may remove noncitizens, as well as others who are not and cannot be "voters," such as minors and fictitious persons, whose registrations were invalid *ab initio*. The majority of federal judges to confront the scope of the NVRA have concluded that its removal provisions do not apply to noncitizens, and this fact alone answers whether "the underlying merits are entirely clearcut in favor of the plaintiff." *Merrill*, 142 S. Ct. at 881.

The problems continue. Virginia’s noncitizen removal process is highly accurate and makes *individualized*, not “systematic,” determinations on eligibility. Again, the people who are removed from the rolls are those who have self-identified as noncitizens, either by affirmatively stating that they are not citizens on DMV forms or by providing documentation to the DMV showing noncitizenship *and* being recently confirmed as noncitizens by the Department of Homeland Security’s database. Virginia’s process is individualized, nondiscriminatory, accurate, and lawful.

There is thus no overriding reason to visit on Virginia’s election officials, and her voters, the enormous disruption and confusion that the burdensome measures sought by Plaintiffs would inescapably entail, especially less than two weeks before a presidential election. The Supreme Court has said time and again that the rules for elections need to be stable and knowable, and thus free of judicial intervention absent the most compelling reasons. The Plaintiffs waited to file these actions until the last, and worst, possible moment to challenge election procedures. The people of Virginia should not be forced to bear the cost of their strategic litigation choices, and the motions for a preliminary injunction should be denied.

## **BACKGROUND**

### **I. Statutory Framework and Factual Background**

Based on its finding that “the right of *citizens of the United States* to vote is a fundamental right,” Congress enacted the National Voter Registration Act, 52 U.S.C. §§ 20501 et seq. Among other things, the NVRA is intended to “enhance[] the participation of *eligible citizens* as voters in elections for Federal office,” to “protect the integrity of the electoral process,” and to “ensure that accurate and current voter registration rolls are maintained.” 52 U.S.C. § 20501(a)(1), (b) (emphasis added). Noncitizens are not eligible to vote; under the Virginia Constitution and both

federal and Virginia law, the right to vote is limited to U.S. citizens. *E.g.*, Va. Const. art. II, § 1; Va. Code Ann. § 24.2-404.4; 18 U.S.C. § 611. Indeed, for a noncitizen to vote is a crime under Virginia and federal law. Va. Code § 24.2-1004(B)(iii); 18 U.S.C. § 611.

To promote eligible citizens' participation in federal elections, the NVRA requires "each State [to] establish procedures to register to vote . . . by application made simultaneously with an application for a motor vehicle driver's license." *Id.* § 20503(a)(1); *see generally id.* § 20504 (establishing procedures for "State motor vehicle authori[ties]" to implement for voter registration). At the same time, the NVRA imposes a duty on States to maintain "accurate and current voter registration rolls" and thus to make "a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters." *Id.* § 20507(a)(4).

The NVRA not only requires states to remove "ineligible voters" from the rolls—it also regulates the manner in which states do so. *Id.* The NVRA's General Removal Provision, *id.* § 20507(a)(3), declares that a person "may not be removed from the official list of eligible voters except" in four enumerated circumstances: voter request, death of the voter, voter felony conviction or mental incapacity, and change in voter residence (if certain procedures are followed), *id.* § 20507(a)(3), (4). In addition to the General Removal Provision's blanket ban on voter removals, which applies at all times, the NVRA also contains a special prohibition on removals close to federal elections. Section 20507(c)(2), the so-called Quiet Period Provision, prohibits states from "systematic[ally]" removing "ineligible voters" from the rolls within 90 days of a federal election, with exceptions for voter request, death of the voter, and voter felony conviction or mental incapacity. *Id.* § 20507(c)(2).

Seeking to harmonize its laws with the NVRA and other federal voting statutes, in 2006 Virginia's General Assembly passed, and then-Governor Timothy Kaine signed into law, new

obligations on Virginia’s DMV and Department of Elections (ELECT). *See* 2006 Va. Acts. chs. 926, 940. The 2006 amendments required the DMV to ask each applicant for a motor-vehicle operator’s license or renewal “if he is a United States citizen” and to “furnish monthly to the Department of Elections a complete list of all persons who have indicated a noncitizen status to the [DMV].” *Ibid.* (enacting new Virginia Code § 24.2-410.1). They further required the general registrar for each jurisdiction in Virginia to “promptly cancel the registration of . . . all persons known by him not to be United States citizens by reason of reports from the [DMV] pursuant to § 24.2-410.1.” *Ibid.* (amending Va. Code § 24.2-427(B)).<sup>1</sup> In accordance with the then-prevailing preclearance regime of the Voting Rights Act, these amendments were submitted to the United States Department of Justice, which “did not interpose any objection” to Virginia’s changes. October 22, 2024 Declaration of Graham K. Bryant, Ex. A (Bryant Decl.); October 22, 2024 Declaration of Steven L. Koski ¶ 4 (Koski Decl.). These requirements have been applied over the course of the past eight federal elections, including during the 90-day quiet period, and have never been challenged for noncompliance with the NVRA, by the United States or anyone else. October 22, 2024 Declaration of Ashley Coles ¶ 17 (Coles Decl.).

Consistent with these longstanding statutory obligations to ensure that only citizens are registered to vote, the DMV asks every applicant for most DMV “document[s], or renewal thereof,” the question, “[a]re you a citizen of the United States?” Va. Code Ann. §§ 24.2-410.1(A), 24.2-411.3; Koski Decl. ¶¶ 5–6; see Bryant Decl. Exs. B–D. The DMV asks the citizenship question when issuing, renewing, or replacing a driver’s license or identification card or when changing the address associated with such documents. Koski Decl. ¶¶ 5–6. All individuals

<sup>1</sup> A 2020 amendment requires voter-registration forms to be automatically presented to every applicant at the DMV unless they affirmatively decline. *See* Va. Code Ann. §§ 24.2-410.1; 24.2-427.

conducting one of these DMV transactions, whether in-person or online, are presented with the citizenship question, and given the option to decline to answer. Koski Decl. ¶ 7. The question is accompanied by a warning “that intentionally making a materially false statement during the transaction constitutes election fraud and is punishable under Virginia law as a felony.” Va. Code § 24.2-411.3; Koski Decl. ¶ 7; Bryant Decl. Ex. D..

In addition to the citizenship question on these forms, all DMV customers are presented with an electronic voter-registration application. Va. Code § 24.2410.1. Because only citizens can vote, the application also asks about citizenship status. If a person answers that he is not a citizen, a second screen will pop up stating that citizens cannot vote and asking him a second time whether he is a citizen. Koski Decl. ¶ 11; Bryant Decl. Ex. D.

Virginia law requires the DMV to “furnish monthly to the Department of Elections a complete list of all persons who have indicated a noncitizen status” on a DMV form. Va. Code § 24.2-410.1(A). Contrary to some assertions, only persons who *affirmatively* state that they are not citizens are on the list sent to ELECT. Koski Decl. ¶¶ 12–14. If an applicant does not answer the citizenship question, his information is *not* passed along to ELECT. Koski Decl. ¶¶ 13–14.

In addition, the DMV obtains information about an individual’s citizenship when he presents documentation of residency, such as when obtaining temporary or permanent identification cards. Koski Decl. ¶¶ 6, 15–16. Such legal presence documentation will show that the individual is not a citizen, such as federal documentation of a lawful permanent residence, asylum status, or a resident alien card. Koski Decl. ¶ 17. The DMV also transmits to ELECT information about individuals who affirm in recent DMV transactions that they are citizens, but whose legal presence documentation on file with the DMV indicates the opposite. Koski Dec. ¶ 18. Because the DMV does not require new residency documentation for most transactions, however,



individuals on this list may have subsequently become naturalized citizens. Koski Dec. ¶ 19. Knowing that there is potential for an innocent inconsistency, ELECT's policy is not to send information regarding these individuals on to local registrars, subject to one limited exception discussed below. Koski Dec. ¶ 19.

The information that the DMV sends to ELECT contains extensive data fields for each person that allow both ELECT and general registrars accurately to compare the individual to the list of registered voters. Coles Decl. ¶ 5. These data fields include, among other data, the person's full name, social security number, birth date, address, sex, DMV customer number, and transaction date. Coles Decl. ¶ 5; Koski Decl. ¶ 20.

When ELECT receives this information regarding self-declared noncitizens from the DMV, it compares the information for each self-declared noncitizen with voter information contained in ELECT's statewide voter registration system, the Virginia Election and Registration Information System (VERIS), to identify potential matches with registered voter records. Coles Decl. ¶ 6. ELECT then sends the records to the local registrar serving the individual's jurisdiction. Coles Decl. ¶¶ 3, 5, 7.

Although ELECT's general policy, as noted above, is to send local registrars only the records of persons who affirmatively and contemporaneously declared that they are not citizens on a DMV form, it did recently collaborate with the DMV to ensure that persons who engaged in DMV transactions between July 1, 2023, and June 30, 2024 and had noncitizen documents on file were not improperly on the voter rolls. Koski Decl. ¶ 21; Coles Decl. ¶ 22. To accurately ensure that noncitizens were not registered, ELECT asked the DMV to run these persons through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database. *See* Va. Code Ann. § 24.2-404(E) (requiring ELECT to use SAVE "for the purposes of

verifying that voters listed in the Virginia voter registration system are United States citizens”); Koski Decl. ¶ 22; Coles Decl. ¶ 23. The SAVE database can determine whether a noncitizen resident has subsequently obtained citizenship, ensuring that out-of-date data in the DMV files did not result in naturalized citizens being removed from the rolls. Coles Decl. ¶¶ 27–29. Only those persons registered to vote who had noncitizen documents on file with the DMV and also were confirmed as current noncitizens in a fresh SAVE search were transmitted to the local registrars for each jurisdiction to act upon. Koski Decl. ¶¶ 19, 22–23; Coles Decl. ¶ 24–25. ELECT’s transmissions of individuals’ information to the local registrars from this ad hoc process occurred in late August 2024. Coles Decl. ¶ 25. ELECT’s individualized approach, which confirmed noncitizen status with a SAVE search within the previous 30 days, ensured that no naturalized citizens were removed from the voter rolls based on outdated DMV documents during the *ad hoc* process. Koski Decl. ¶¶ 19, 22; Coles Decl. ¶¶ 22–24; 30–31.

Virginia law requires “general registrars to delete . . . the name of any voter who . . . is known not to be a United States citizen by reason of” that person’s self-declaration of noncitizen status or from information ELECT received from a SAVE verification. Va. Code Ann. § 24.2-404(A)(4); *see id.* §§ 24.2-427(C). Accordingly, the registrar manually reviews each potential match on an individual basis to confirm that the noncitizen and the registered voter identified in VERIS are the same person. Coles Decl. ¶ 7. The registrar has discretion in this process to correct any errors she spots. For instance, if after investigating the potential match, the registrar determines that the noncitizen and the registered voter identified in VERIS are different people, the registrar can reject the match. Bryant Decl. Ex. E at 12. The registrar can also refuse to initiate the removal process if she has information verifying citizenship that ELECT and the DMV did not possess. *See* Va. Code § 24.2-427(B) (registrar is to act based on information

“known by him”). The registrar can additionally note that further research is needed, which holds the potential match in the registrar’s hopper pending further action. Bryant Decl. Ex. E at 12–13. If the registrar determines that the noncitizen and the registered voter are the same person, then the registrar will mail the individual a “Notice of Intent to Cancel” that individual’s registration to vote. Va. Code Ann. § 24.2-427(C); Bryant Decl. Ex. F at 35.

This Notice of Intent to Cancel explains that ELECT “ha[d] received information that” the individual is “not a citizen of the United States” and that *if* this information “is correct,” then the individual is “not eligible to register to vote.” Bryant Decl. Ex. G at 1. The notice also instructs that if “the information is incorrect” and the individual is a citizen, the individual should complete an enclosed affirmation of citizenship and return it using a pre-addressed envelope that is enclosed with the notice. *Ibid.* The individual is not required to produce any documentation. Instead, an individual who is in fact a citizen need only complete and return by mail or in person the attestation form, which states: “Subject to penalty of law, I do hereby affirm that I am a citizen of the United States of America.” *Id.* at 3. Virginia law allows the individual “to submit his sworn statement that he is a United States citizen within 14 days of the date that the notice was mailed.” Va. Code Ann. § 24.2-427(C). The “general registrar shall cancel the registrations of such persons who do not respond.” *Ibid.* By default, however, the VERIS system builds in a grace period and only cancels the registrations of individuals who do not confirm citizenship within 21 days. Bryant Decl. Ex. F at 36; Coles Decl. ¶¶ 10–11.

The local registrar then provides the individual a second opportunity to correct a mistake, sending a separate notice informing the individual of the cancellation of his registration. Bryant Decl. Ex. F at 36; Coles Decl. ¶ 12. This Notice of Cancellation explains that the general registrar has cancelled that individual’s registration to vote for failing to respond with an affirmation of

citizenship, and it invites the individual to contact the registrar’s office if the individual believes the removal “is incorrect.” Bryant Decl. Ex. H. If, despite attesting to the DMV that he is not a citizen and then failing to respond to the registrar’s notice, a removed individual is in fact a citizen, that person may simply re-register to vote. Coles Decl. ¶ 13. Before October 15, the person could reregister in the ordinary fashion. Coles Decl. ¶ 14. After October 15, he can same-day register while casting an early ballot or an in-person ballot on election day. Coles Decl. ¶ 14.; *see* Va. Code Ann. § 24.2-420.1. As with all voter registrations, the person must attest to his citizenship under penalty of perjury; there is no requirement to provide documentary proof of citizenship, nor is the prior removal from the rolls held against the individual in any way. Coles Decl. ¶ 15.

Executive Order 35, issued by Governor Youngkin on August 7, 2024, expressly recognized that the DMV and ELECT had been carrying out these statutory obligations since the Department of Justice granted preclearance during the Kaine Administration. Bryant Decl. Ex. I. Indeed, ELECT records demonstrate that it has consistently sent information about self-declared noncitizens who match VERIS records for registered voters to local registrars—including during the 90-day period before a primary or general election—since at least 2010. Coles Decl. ¶ 17.

Rather than establish new processes, Executive Order 35 required ELECT to certify to the Governor that it was following Virginia law. Bryant Decl. Ex. I at 2–4. DMV and ELECT also were instructed to increase the frequency of their communications under the procedures already in place. *Id.* at 4. DMV previously transmitted to ELECT a list of individuals who “indicated a noncitizen status” to the DMV on a “monthly” basis. Va. Code Ann. § 24.2-410.1(A). Executive Order 35 instructed the DMV to “expedite” this “interagency data sharing” by “generating a daily file of all non-citizens transactions.” Bryant Decl. Ex. I at 4. Consistent with this directive, beginning with data for transactions occurring on August 19, 2024, the DMV began transmitting

data files to ELECT on a daily basis with information from the previous day's transactions. Coles Decl. ¶ 18. In addition, the DMV continued sending simplified monthly files of the same information. Coles Decl. ¶ 19.

Consistent with Virginia law and ELECT's longstanding practice of closing the standard voter registration process 21 days before an election, ELECT ceased transmitting information to local registrars regarding potential noncitizens on the voter rolls after October 14, 2024. *See* Va. Code Ann. § 24.2-416(A) (requiring registration records to "be closed during the 21 days before a primary or general election"); Coles Decl. ¶ 33. Back on September 4, 2024, Commissioner Beals testified to the Virginia House of Delegates Privileges and Elections Committee that only removals from the voter rolls based on death of the voter would be processed by ELECT after October 15. Virginia House of Delegates Privileges and Elections Committee Meeting, September 4, 2024 (Sept. 4 Comm. Meeting), at 3:10:46 pm (statement of Commissioner Beals), <https://tinyurl.com/54fy6r5n>. All other removals—including of noncitizens—would cease to be initiated by ELECT "after that deadline." *Id.*; *see* Va. Code Ann. § 24.2-427(b) ("The general registrar shall promptly cancel the registration of . . . all persons known by him to be deceased."). Thus, on October 16, 2024, ELECT issued guidance to registrars stating that "ELECT will not process any additional records to your hoppers until after the election, except for weekly death records as required by law." Bryant Decl. Ex. J at 1. Accordingly, ELECT is not currently forwarding to registrars any information regarding noncitizens on the voter rolls and will not resume doing so until after the November 2024 General Election.

Despite the closing of the rolls, eligible citizens may still register to vote—up to and including on Election Day—through same-day registration. *See* Sept. 4 Comm. Meeting, at 3:03:10 pm (statement of Commissioner Beals); Va. Code Ann. § 24.2-420.1. If there is any person

who was removed from the voter rolls pursuant to Virginia Code § 24.2-427(C) after failing to return the attestation of citizenship, but who is in fact an eligible citizen, then that person may attest to his citizenship by same-day registering in person at an early voting site or at the appropriate precinct on election day and can “immediately vote a provisional ballot.” ELECT, *Same Day Voter Registration*, <https://tinyurl.com/3t982f3t> (last accessed Oct. 18, 2024); Bryant Decl. Ex. J at 1; Coles Decl. ¶¶ 13–14. The general registrar then researches the registrant’s eligibility, and based on that research, the local electoral board determines whether the provisional ballot should be counted. Coles Decl. ¶¶ 34–35. In doing so, neither the general registrar nor the electoral board considers the registrant’s prior removal from the rolls or prior self-declaration of noncitizenship—instead, the sole question is whether the registrant is an eligible voter in the precinct in which he cast the provisional ballot. Coles Decl. ¶¶ 36–37. If the electoral board determines that the registrant is qualified to vote, the ballot will be counted. *Same Day Voter Registration*, *supra*; Coles Decl. ¶ 38<sup>2</sup>

## II. Procedural background

On October 7, 2024, the Virginia Coalition for Immigrant Rights, the League of Women Voters of Virginia, the League of Women Voters of Virginia Education Fund, and African Communities Together (collectively “Organizational Plaintiffs”) filed a complaint challenging the legality of Virginia’s longstanding noncitizen removal process used to ensure that only American

<sup>2</sup> Notably, ELECT’s data from the 2023 General Election demonstrates that “98% or 18,088 of [provisional] ballots cast during the 2023 General Election were counted,” and it is not even clear whether the two percent that did not count were disqualified for registration issues or other flaws in the ballot such as voting in the wrong place. ELECT, 2023 Annual Virginia Election Retrospective & Look Ahead at 25–26 (Mar. 6, 2024), <https://tinyurl.com/229x8z8u>. Again, a person’s prior removal under Virginia Code § 24.2-427(C) would not be a reason for rejecting a provisional ballot, so long as the person attests on his voter registration under penalty of perjury that he is a citizen. Coles Decl. ¶ 13–16; 39.

citizens are registered and able to vote. *See* Amended Compl. ¶¶ 1–14 (ECF 23). The Organizational Plaintiffs allege that this individualized process for removing *self-declared* noncitizens from the voter rolls, as required by Virginia law to effectuate the Federal and State requirements limiting the right to vote to U.S. citizens, violates the NVRA by amounting to (1) “systematic voter list maintenance within 90 days preceding a federal election,” (2) discrimination against naturalized citizens, and (3) a requirement that “voters . . . provide additional proof of U.S. citizenship” beyond that required in the NVRA Application or other publicly available applications to remain registered. Amended Compl. ¶¶ 14; *see id.* at 67–84.<sup>3</sup> They named as defendants Susan Beals, the Virginia Commissioner of Elections; members of the Virginia State Board of Elections including its chair, John O’Bannon, and members Rosalyn R. Dance, Georgia Alvis-Long, Donald W. Merricks, and Matthew Winstein; and Attorney General Jason Miyares. *Id.* ¶¶ 35–37. About a week after filing the complaint, on October 15, 2024, they moved for a preliminary injunction. Mem. in Supp. of Mot. for Prelim. Inj. (ECF 26-1); *see* Amended Compl. ¶¶ 14, prayer for relief at b.

The preliminary-injunction motion demands relief on only two of the four counts in the complaint. First, the Organizational Plaintiffs contend that Virginia’s process for ensuring that only American citizens participate in elections violates the NVRA because it is a process that “systematically remov[es] voters from the rolls” during the NVRA’s “90-day quiet period before the date of a general election.” Amended Compl. ¶ 78 (quoting 52 U.S.C. § 20507(c)(2)(a)). Second, they claim that the process “identifies registered voters based on national origin and type of citizenship status” and consciously burdens naturalized citizens in contravention of the NVRA’s

<sup>3</sup> The Organizational Plaintiffs also bring a claim that they are entitled to certain voting information under the NVRA *See* Amended Compl. ¶ 14.

requirement that voter list maintenance programs be “uniform” and “nondiscriminatory.” *Id.* ¶¶ 81–84 (quoting 52 U.S.C. § 20507(b)(1)). For a remedy, the Organizational Plaintiffs ask this Court to order Defendants to immediately halt implementation of the noncitizen removal process, to affirmatively “place back on the rolls in active status” any person whose registration was previously cancelled as part of this process regardless of their citizenship status, and to undertake an assortment of burdensome public notice and other remedial measures days before a presidential election. Org. Pl. Proposed Injunction at 2 (ECF 26-25).

While this case was getting off the ground, the United States also sued the Commonwealth of Virginia, ELECT, and Susan Beals on October 11, 2024. Its complaint is narrower, alleging only that Virginia is violating the Quiet Period Provision by systematically removing noncitizens from the voter rolls within 90 days of an election. The two cases were consolidated, and the United States moved for a preliminary injunction on October 16, also requesting broad equitable relief on the eve of an election. The motions for preliminary injunctions have been scheduled for a hearing on Thursday, October 24, more than a month after the start of early voting.

### LEGAL STANDARD

Plaintiffs set forth the standard *Winter* four-factor test for granting a preliminary injunction. *See* U.S. Br. at 9-10; Org. Br. at 10 (quoting *Winter v. NRDC*, 555 U.S. 7, 22 (2008)). That test is daunting enough, and Plaintiffs cannot satisfy it. But it is not applicable here. The test for a preliminary injunction applicable here, in the context of an eleventh-hour challenge to a State’s election procedures, is much stricter. To obtain the preliminary relief Plaintiffs seek, they must show that “(i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the



election without significant cost, confusion, or hardship.” *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring in grant of applications for stay). As demonstrated below, they fall far short on every factor.

## **ARGUMENT**

Neither the Organizational Plaintiffs nor the United States are entitled to the preliminary injunctions they seek on the eve of the 2024 presidential election. No Plaintiff meets *any* of the *Merrill* factors, much less all four. As an initial matter, the Organizational Plaintiffs’ case is doomed, twice, at the Court’s doorstep, for they lack standing and their claims are barred by sovereign immunity. Even if federal jurisdiction existed over those claims, neither the Organizational Plaintiffs nor the United States could prevail on the merits because they fundamentally misread the scope of the NVRA and misunderstand the facts of this case. *See pp. 22–35, infra*. Additionally, no Plaintiff will suffer irreparable harm without a preliminary injunction, and in light of Plaintiffs’ unconscionable delay in bringing these suits, the equities favor avoiding, and the *Purcell* doctrine precludes, federal intervention into an election that is already underway. *See pp. 35–43, infra*.

### **I. This Court Lacks Jurisdiction Over the Organizational Plaintiffs’ Claims**

#### **A. The Organizational Plaintiffs Lack Article III Standing**

None of the Organizational Plaintiffs may obtain injunctive relief because none has standing. “Standing is part and parcel of the constitutional mandate that the judicial power of the United States extend only to ‘cases’ and ‘controversies.’” *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 313 (4th Cir. 2013) (quoting U.S. Const. art. III, § 2). To establish “the ‘irreducible constitutional minimum’ of standing,” plaintiffs must show that they “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016).

Plaintiffs “bear the burden of . . . showing that the defendant’s actual action has caused the substantial risk of harm,” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 414 n.5 (2013), and “[a]n injury . . . must result from the actions of the [defendant], not from the actions of a third party,” *Doe v. Virginia Dep’t of State Police*, 713 F.3d 745, 755 (4th Cir. 2013).

The same standing rules apply when membership organizations, such as the Organizational Plaintiffs, *see* Amended Compl. ¶ 12, attempt to invoke federal jurisdiction, *see Lane v. Holder*, 703 F.3d 668, 674 (4th Cir. 2012). An organization can establish Article III standing in two ways. It can show that at least one of its members has standing and that the organization can properly represent the member’s interests (“associational standing”), or it can satisfy the traditional standing test itself (“organizational standing”). The Organizational Plaintiffs here establish neither.

The Organizational Plaintiffs lack associational standing. “An association has associational standing when at least one of its ‘identified’ members ‘would otherwise have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.’” *Outdoor Amusement Bus. Ass’n v. DHS*, 983 F.3d 671, 683 (4th Cir. 2020) (quoting *Friends of the Earth, Inc. v. Laidlaw Env’t. Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000)). Thus, to establish associational standing, the Organizational Plaintiffs must specifically “identify members who have suffered the requisite harm.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009); *see also, e.g., S. Walk at Broadlands Homeowner’s Ass’n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 184–85 (4th Cir. 2013) (denying organizational standing when plaintiff “has failed to identify a single *specific member* injured by” the challenged action).

The Organizational Plaintiffs have not identified a single specific member who has allegedly been or will be harmed by Virginia’s program to remove noncitizens from the voter rolls.

Without an injured member, there can be no plausible case for associational standing. The Organizational Plaintiffs attempt to generate associational standing by asserting that they have many members who are naturalized citizens, *see* Amended Compl. ¶¶ 29, 32, some of whom, Plaintiffs argue, could be erroneously removed from the voter rolls, *see, e.g.*, Ex. W ¶ 40 (declaration of Joan Porte) (“[T]he League’s members include Virginians who are naturalized U.S. citizens who likely once received noncitizen identification numbers or identified themselves as noncitizens at the DMV.”). This theory is not only based on pure speculation, but also simply a reprisal of the probabilistic-standing theory that the Supreme Court rejected in *Summers*. *See* 555 U.S. at 498. Even if there were a “statistical probability” that one of the organization’s roughly 700,000 members would suffer an injury in fact, the Supreme Court still required the organization to “make specific allegations establishing that at least one identified member had suffered or would suffer harm.” *Id.*

The Organizational Plaintiffs are unable to identify a single member with standing because they are mistaken about how Virginia’s voter-roll process actually works. ELECT has sent Notice of Intent to Cancel forms only to individuals (a) who have contemporaneously self-declared on a DMV form that they are *not* American citizens or (b) who have previously self-identified as noncitizens in documents on file with the DMV, and had their current noncitizen status confirmed by a new SAVE search. Koski Decl. ¶¶ 5, 12, 15, 18–19; Coles Decl. ¶¶ 4, 21, 24, 30–32. The process used by ELECT, in other words, is not causing naturalized citizens to be removed from the voter rolls as the Organizational Plaintiffs suggest. Nor, as the Organizational Plaintiffs allege, are people being removed from the voter rolls for “leaving pertinent citizenship documents blank when filling out DMV forms.” Org. Pl. Br. at 18. When applicants leave citizenship questions on DMV forms blank or decline to answer, their information is not provided to ELECT. Koski Decl.

¶¶ 13–14.

The Organizational Plaintiffs likewise lack organizational standing. Organizations have standing “to sue on their own behalf for injuries they have sustained,” *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379, n. 19 (1982), but they still must satisfy the same standards for injury-in-fact, causation, and redressability that apply to individuals, *id.* at 378–379. Much like natural persons, “an organization may not establish standing simply based on” harm to its interests “or because of strong opposition to the government’s conduct.” *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 394 (2024). Likewise, “an organization . . . cannot spend its way into standing simply by expending money to gather information and advocate against the defendant’s action.” *Ibid.*

The Complaint and accompanying declarations establish no more than abstract organizational interests and voluntary budgetary decisions based on those interests. The harm that the Organizational Plaintiffs repeatedly and commonly allege is that they were forced to “divert significant resources” away from voter-outreach and other community-building activities and “toward . . . attempting to mitigate the effects” of Virginia’s removal of noncitizens from the voter rolls. Amended Compl. ¶ 21 (describing the changes made by the Virginia Coalition for Immigrant Rights); *id.* ¶ 26 (explaining that the League of Women Voters has expended resources to “rapidly understand the impact of E.O. 35 and its effect on Virginia voters”); *id.* ¶ 34 (asserting that African Communities Together diverted resources “by developing and producing new public education materials”). But the Fourth Circuit has long held that an organization’s “own budgetary choices” concerning the allocation of funds, such as “educating members, responding to member inquiries, or undertaking litigation in response to legislation,” are not enough to establish an injury in fact. *Lane*, 703 F.3d at 675; *see also Tenn. Conf. of the NAACP v. Lee*, 105 F.4th 888, 903 (6th Cir. 2024) (*per curiam*) (holding that “the decision to spend money to minimize the alleged harms” to

other parties caused by government action did not supply organizational standing). Likewise, the Supreme Court has recently reaffirmed that an organization cannot establish standing simply because it feels compelled “to inform the public” that the government’s actions are allegedly harmful or illegal. *All. For Hippocratic Med.*, 602 U.S. at 395. Otherwise, every organization in the world could “spend its way into standing” to challenge every law that the organization opposed, and Article III’s limitations on the power of the federal judiciary would be illusory. *Id.*; see *Lane*, 703 F.3d at 675.

Although the Organizational Plaintiffs fail to mention standing in their motion, their Complaint and declarations suggest that they intend to rely on *Havens Realty Corp.*, 455 U.S. at 368. But “*Havens* was an unusual case” that courts should not “extend . . . beyond its context,” *All. For Hippocratic Med.*, 602 U.S. at 396, and it cannot rescue the Organizational Plaintiffs’ deficient standing claims. The plaintiff in that case, a housing-counseling provider, sent employees commonly referred to as “testers” to determine whether a real estate company was falsely telling black renters that no units were available. *Havens Realty Corp.*, 455 U.S. at 366 & n.1, 368. The Supreme Court held that the plaintiff suffered an injury in fact because lies told to the plaintiff’s employee testers “perceptibly impaired [the plaintiff’s] ability to provide counseling and referral services.” *Id.* at 379. As the Supreme Court explained, lies told to the plaintiff’s employees “directly affected and interfered with [the plaintiff’s] core business activities—not dissimilar to a retailer who sues a manufacturer for selling defective goods to the retailer.” *All. For Hippocratic Med.*, 602 U.S. at 395. *Havens* thus dealt with a unique type of business injury and does not stand for the proposition that the diversion of resources alone establishes organizational standing. Without an employee who suffered an injury that also harmed the Organizational Plaintiffs’ “core business activities,” they cannot establish standing under *Havens*. *Id.*

The Organizational Plaintiffs lack both organizational and associational standing, and thus this Court lacks jurisdiction to adjudicate their claims. Their motion for a preliminary injunction must therefore be denied.

**B. Sovereign Immunity also Bars the Organizational Plaintiffs' Claims**

Sovereign immunity also bars the Organizational Plaintiffs' claims. Sovereign immunity applies in full force to alleged past violations of law, even if an equitable remedy is sought. *See Edelman v. Jordan*, 415 U.S. 651, 666 (1974). The *Ex parte Young* exception to Defendants' constitutional immunity from suit can apply only to the extent that Plaintiffs seek "prospective, injunctive relief against . . . ongoing violations of federal law." *Bland v. Roberts*, 730 F.3d 368, 390 (4th Cir. 2013) (emphasis added); *see Ex parte Young*, 209 U.S. 123 (1908). Yet as Commissioner Beals publicly testified to the Virginia House of Delegates on September 4, 2024, the noncitizen removal program ended on October 15. *See Beals Statement, supra*, at 3:10:46 pm. As of that date ELECT officials, consistent with Virginia law, are no longer referring noncitizens to local registrars to begin the 21-day process of removing from local voter rolls those who fail to affirm their citizenship. *See Va. Code Ann. § 24.2-416* (closing the registration process "during the 21 days before a primary or general election"). Defendants will not resume these referrals until after the election is over.

Thus, there is not an ongoing process to enjoin prospectively, and the only remaining conduct challenged by Plaintiffs—initiating the removal of self-declared noncitizens from the rolls for the upcoming election—"occurred entirely in the past." *DeBauche v. Trani*, 191 F.3d 499, 505 (4th Cir. 1999). As a result, the preliminary injunctive relief that Plaintiffs request for that purported violation—an order that the Defendant ELECT officials take steps to return to the voter rolls persons removed through this process, along with individual notices, public announcements, and other associated measures—is all retrospective, not "prospective." *Bland*, 730 F.3d at 390. In

these circumstances, the *Ex parte Young* exception to sovereign immunity “does not apply.” *DeBauche*, 191 F.3d at 505.

In any event, sovereign immunity necessarily bars the Organizational Plaintiffs’ claims against the Attorney General, who has nothing to do with the challenged process. The *Ex parte Young* exception applies only to officials who bear a “special relation” to “the challenged statute” and who have “acted or threatened” to enforce the statute. *McBurney v. Cuccinelli*, 616 F.3d 393, 399, 402 (4th Cir. 2010) (quotation marks omitted). The Attorney General plays no role in the noncitizen removal process, which local registrars carry out based on directives from ELECT, prompted by information that ELECT receives from the DMV. The Attorney General thus has participated in no alleged violation of the NVRA, let alone an ongoing one. Plaintiffs recognize as much: their Prayer for Relief asks the Court to order “Defendants Beals and State Board of Election Members,” not the Attorney General, “to instruct all Virginia county registrars” to undo removals effected through this process. Amended Compl. prayer for relief at d. The Attorney General does have the authority to prosecute people who vote illegally, *see* Va. Code Ann. § 24.2-104(A) (authority to enforce voting laws), but the legality of Virginia’s criminal laws against noncitizen voting is not at issue here. The Court therefore lacks jurisdiction over Plaintiffs’ claims against the Attorney General for this reason as well.

## **II. The United States and the Organizational Plaintiffs’ Claims Under the NVRA Are Unlikely to Succeed**

Neither the Organizational Plaintiffs nor the United States has shown a likelihood of success on their claims under the NVRA. As a threshold matter, the NVRA’s Quiet Period Provision simply does not apply to the removal of noncitizens from the voter rolls, just as it does not apply to the removal of minors or fictitious persons. It only applies to the removal of *voters* who validly registered in the first place but who subsequently became ineligible, such as those

who have since been convicted of a felony or have changed their residence. Plaintiffs’ Quiet Period claims also fail because Virginia’s process for removing noncitizens is a highly individualized process to update voter rolls, not a “systematic” program. Far from the kind of bulk mailing and door-to-door canvassing that Congress contemplated as “systematic” programs, the Commonwealth’s noncitizen removal process focuses narrowly on specific individuals who have declared themselves to be noncitizens and involves contacting each such individual—twice—to give the individual an opportunity to correct the record by affirming his citizenship. Finally, the Organizational Plaintiffs’ “discrimination” claim, which the United States declined to bring, fails because the noncitizen removal process is facially neutral and does not discriminate against people based on national origin or naturalized citizenship.

**A. Defendants Did Not Violate the NVRA’s ‘Quiet Period’ Requirements**

The United States and the Organizational Plaintiffs claim that Defendants violated the NVRA’s Quiet Period Provision, which prohibits certain changes to the voter rolls within 90 days of an election. *See* 52 U.S.C. § 20507(c)(2). Their claims fail for at least two reasons.

**1. The NVRA Does Not Restrict Removing Noncitizens and Other Persons Whose Registration Was Invalid *Ab Initio***

The NVRA’s Quiet Period Provision does not apply to the removal of persons who were never eligible to vote in the first place. When interpreting the NVRA, courts must start, as always, with the plain language of the text. *See Davidson v. United Auto Credit Corp.*, 65 F.4th 124, 128 (4th Cir. 2023). To understand that language, courts look to the meaning of the words, informed by the context in which they are used, which “often provides invaluable clues to understanding the[ir] meaning.” *United States v. Smith*, 919 F.3d 825, 837 (4th Cir. 2019).

The text of the NVRA’s Quiet Period Provision requires States to “complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the



purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.” 52 U.S.C. § 20507(c)(2)(A). Like much of the NVRA, the Quiet Period Provision distinguishes between “eligible voters” and “ineligible voters.” *Id.* A “voter” is a person who “votes or has the legal right to vote.” *Voter*, Merriam-Webster, (<https://www.merriam-webster.com/dictionary/voter>) (last accessed Oct. 22, 2024). The adjectives “eligible” or “ineligible” then narrow the term “voters” to apply to two subsets of “voters.” An “eligible voter” is a person who is “qualified to participate” in a given election. *Eligible*, *supra*, (<https://www.merriam-webster.com/dictionary/eligible>) (last accessed Oct. 22, 2024). On the other hand, an “ineligible voter” is a person who had “vote[d] or ha[d] the legal right to vote” but is “not qualified” in a given election. *Ineligible*, *supra*, (<https://www.merriam-webster.com/dictionary/ineligible>) (last accessed Oct. 22, 2024). For example, a voter could become ineligible because he has moved away, been convicted of a felony, or been declared mentally incapacitated. *See* 52 U.S.C. § 20507(a)(3)(B), (a)(4)(B). The key, then, is “voter.”

The most natural reading of the Quiet Period Provision, therefore, is that it restricts programs with the “purpose” of “systematic[ally]” removing *voters*—those who “vote[d] or ha[d] the legal right to vote,” but who are no longer “qualified” to vote. Indeed, the title of the subsection that houses the Quiet Period Provision is “*Voter* Removal Programs,” which confirms that the provision concerns removing people who are or were bona fide voters and not persons who have never possessed the right to register to vote or cast a ballot. *Id.* § 20507(c)(2) (emphasis added); *see also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Text*, 221 (2012) (explaining that titles are a permissive tool when interpreting a statute). The plain-text reading of the Quiet Period Provision therefore does not prohibit removing from the rolls persons who never could have validly registered in the first place because such persons were never “eligible

voters” or even “ineligible voters.” 52 U.S.C. § 20507(c)(2)(A). They are not “voters” at all. Therefore, States are free to systematically remove noncitizens, minors, and fictitious persons within 90 days of an election without running afoul of the NVRA.<sup>4</sup>

The structure, purpose, and legislative history of the NVRA confirm what the plain text says: States may exclude noncitizens, minors, and fictitious persons from the voter rolls at any time. If this were not the case, then the blanket ban on removal of eligible voters in the NVRA’s substantially similar General Removal Provision of the NVRA would necessarily prohibit states from *ever* removing noncitizens, minors, and fictitious persons. As the United States has conceded in the past, that interpretation simply cannot be correct. *See United States v. Florida*, 870 F. Supp. 2d 1346, 1349 (N.D. Fla. 2012) (acknowledging the government’s concession that states can “remov[e] an improperly registered noncitizen”).

Because both provisions apply to the same grounds for removal (aside from change of residence), the Quiet Period Provision cannot logically be interpreted to apply to classes of persons who do not and cannot qualify as *voters*: noncitizens, minors, and fictitious persons. If it could apply to noncitizens, then the General Removal Provision would almost certainly be unconstitutional because it would prohibit States from *ever* removing noncitizens from its voter rolls. As the Supreme Court has emphatically explained, the “Elections Clause empowers Congress to regulate *how* federal elections are held, but not *who* may vote in them,” and forcing

<sup>4</sup> That the noun “voters” is modified by the adjective “ineligible” does not mean that it loses its basic definitional properties. Imagine that a cell-phone company is having a special deal for customers who have been with the company for at least five years. Aaron, who has been with the company for seven years, is an “eligible customer.” Brian, who has been with the company for three years, is an “ineligible customer.” Carl, who does not own a cell phone, is neither because he is not a customer at all. Both Brian and Carl are not “eligible” for the deal, but only Brian can be properly described as an “ineligible *customer*.” Likewise, a noncitizen is “ineligible” to cast a ballot, but he is not an “ineligible voter” because he never entered the category of “voter” in the first place.

States to keep noncitizens on their voter rolls would cross the line into regulating “*who*” may vote in federal elections. *Arizona v. Intertribal Council of Ariz.*, 570 U.S. 1, 16 (2013). “Since the power to establish voting requirements is of little value without the power to enforce those requirements,” it “would raise serious constitutional doubts if a federal statute precluded a state from” enforcing its voting requirements, such as citizenship. *Intertribal Council of Ariz.*, 570 U.S. at 17; *see also id.* at 28 (Thomas, J., dissenting) (“[T]he Voter Qualifications Clause gives States the authority not only to set qualifications but also the power to verify whether those qualifications are satisfied.”).

Therefore, as a matter of traditional constitutional avoidance, the General Removal Provision’s blanket prohibition on removing persons from the list of “eligible voters” must be intended to apply only to persons who were validly entered into the list in the first place. *See Florida*, 870 F. Supp. 2d at 1349. And because the Quiet Period Provision is part of the same Code section, uses the same term “list[] of eligible voters,” and incorporates by reference three of the same exceptions to the General Removal Provision, it must be given the same meaning, reaching only individuals who at one time had the right to vote. *See Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit*, 547 U.S. 71, 86 (2006); Scalia & Garner, *supra*, at 170; *see also Florida*, 870 F. Supp. 2d at 1349–50 (noting the “inescapable” conclusion that if the General Removal Provision “does not prohibit a state from removing an improperly registered noncitizen, then [the Quiet Period Provision] does not prohibit a state from systematically removing improperly registered noncitizens during the quiet period”).<sup>5</sup>

<sup>5</sup> Further, although the Quiet Period Provision applies only in the three months preceding an election, the Constitution contains no clause that permits the federal government to place a time limit on a state’s power to control who may vote as the election approaches. Indeed, that is the time the State most urgently needs to protect the ballot. Thus, the Quiet Period Provision should

No court has *ever* held that the General Removal Provision stops States from removing names from the voter rolls that were null on day one. And if the General Removal Provision cannot be read to apply to originally invalid registrations, then the textually adjacent Quiet Period Provision cannot either. *See Florida*, 870 F. Supp. 2d at 1349–50 (adopting this view); *see also Arcia v. Florida Sec. of State*, 746 F.3d 1273, 1286 (11th Cir. 2014) (Jordan, J., concurring), *vacated by Arcia v. Florida Sec. of State*, 772 F.3d 1335 (11th Cir. 2014); *Arcia v. Detzner*, 908 F. Supp. 2d 1276, 1284 (S.D. Fla. 2012). In the simplest of terms, the entire NVRA scheme is limited to the removal of once-valid registrations, and no part of it abrogates a State’s authority to remove registrations that were void *ab initio*. Thus, while the statutory scheme is admittedly complicated, the takeaway is simple: States can systematically remove within 90 days of an election the same persons they can remove at any other time, except for those “registrants who become ineligible to vote based on a change in residence.” *Arcia v. Detzner*, 908 F. Supp. 2d 1276, 1283 (S.D. Fla. 2012); *id.* § 20507(a)(3), (4), (c)(2).<sup>6</sup>

Statutory purpose, as enacted in the text of the NVRA itself, confirms that neither the General Removal Provision nor the Quiet Period Provision prohibit the removal at any time of inherently invalid registrations. The “Findings and Purposes” section of the statute declares that the goal of the NVRA is to “promote the exercise of” the “right of *citizens* of the United States to vote” and to “ensure that *accurate and current* voter registration rolls are maintained.” 52 U.S.C. § 20501(a), (b) (emphases added). It is difficult to see how a statute that values “citizen[ship]” and “accura[cy]” would prohibit the removal at any time of noncitizens who cannot lawfully participate

not be interpreted to stop or inhibit States from removing noncitizens from the list of eligible voters, for if it is, it violates the Constitution. *See* U.S. Const. art I, § 2.

<sup>6</sup> States may also make “corrections” to their registration records within the 90-day timeframe. 52 U.S.C. § 20507(c)(2)(B)(ii).

in federal elections. *Id.* As the Sixth Circuit explained, the NVRA’s constant references to “eligible voters” and the voting rights of “citizens” make clear that, “[i]n creating a list of justifications for removal, Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place.” *Bell v. Marinko*, 367 F.3d 588, 591–92 (6th Cir. 2004).

Finally, the legislative history of the NVRA also indicates that the Quiet Period Provision applies only to the removal of originally valid registrations. The Senate Report described the Provision’s goal as forcing “[a]ny program which the States undertake to verify addresses” to be “completed not later than 90 days before a primary or general election.” *See* S. Rep. 103-6, at 18–19 (1993). The Report’s concern was with systematic mailings and canvassing programs to address verification for previously eligible voters, not void registrations from noncitizens. Likewise, the House Report stated that the Quiet Period Provision simply “applies to the State outreach activity such as a mailing or a door to door canvas and requires that such activity be completed by the 90-day deadline.” H.R. Rep. No. 103-9, at 16 (1993). Not only does the House Report’s description only cover verification efforts for originally valid registrations through address verification, the Report goes out of its way to confirm that the NVRA “should not be interpreted in any way to supplant th[e] authority” of election officials “to make determinations as to [an] applicant’s eligibility, such as citizenship, as are made under current law and practice.” *Id.* at 8. Both reports make clear that the goal of the Quiet Period Provision, as reflected in the text, structure, and purpose of the NVRA, was to put a stop date on systematic programs to verify the continued residential eligibility of originally valid registrations, not to prohibit the removal of void, noncitizen registrations.

To be sure, courts have not uniformly interpreted the NVRA’s Quiet Period Provision, and

some have held, erroneously, that the Provision bars removal of noncitizens from the rolls within the 90-day period. *See Arcia*, 772 F.3d at 1348 (majority adopting the view that the Quiet Period Provision covers the removal of noncitizens); *Mi Familia Vota v. Fontes*, 691 F. Supp. 3d 1077, 1092–93 (N.D. Ariz. 2023) (same). But a majority of federal judges to address the scope of the NVRA have correctly concluded that “Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place.” *Bell*, 367 F.3d at 591-92; *see Arcia*, 772 F.3d at 1348-49 (Suhrheinrich, J., dissenting) (“I would affirm the judgment of the district court for the reasons set forth in the district court’s opinion, *see Arcia v. Detzner*, 908 F. Supp. 2d 1276 (S.D. Fla. 2012), as well as the reasoning of *United States v. Florida*, 870 F. Supp. 2d 1346 (N.D. Fla. 2012)”).

None of the cases holding that the Quiet Period Provision prohibits the removal of noncitizens examined the plain meaning of the word “voter,” and as previously demonstrated, noncitizens do not fall into that category. The NVRA, after all, “is premised on the assumption that citizenship” is necessary to register to vote. *Arcia*, 772 F.3d at 1344. Instead of engaging in a plain-text analysis, both the *Arcia* majority and the district court in *Mi Familia Vota* drew a negative inference from the existence of the three previously discussed exceptions to the Quiet Period Provision to conclude that no exception existed for noncitizens. *Id.* at 1345; *Mi Familia Vota*, 691 F. Supp. 3d. at 1093. This inference is unwarranted. Because noncitizens are not “voters” within the meaning of the Quiet Period Provision to begin with, there was no need for an exception allowing them to be removed, just as there is no exception for minors or fictitious persons. If anything, these courts should have drawn the opposite inference: If the NVRA creates mere procedural restrictions for the removal of persons who were at one point eligible to vote and are no longer, then it surely would not provide greater protection against removal of persons who were

*never* eligible to vote. Indeed, all three exceptions in the Quiet Period Provision allow for removal only of persons who would have been previously eligible to vote. Congress did not prohibit the removal of persons whose registrations were void *ab initio*; it left the issue to the States, where it previously resided.

## **2. Defendants’ Removal of Noncitizens Was “Individualized” and Not “Systematic”**

Even if this Court concludes that the NVRA’s Quiet Period Provision applies to the removal of persons who were never eligible to vote, the Plaintiffs have still not shown a likelihood of success on their claim that Virginia is “purpose[fully]” conducting a “systematic” program to update its voter rolls. 52 U.S.C. § 20507(c)(2)(A).

The Quiet Period Provision prohibits States from operating any “program” whose “purpose” is to “systematic[ally]” remove voters from the rolls fewer than 90 days before the election. 52 U.S.C. § 20507(c)(2)(A). But the Quiet Period Provision allows removals during this 90-day period if the actions are performed on an individualized basis. *See* 52 U.S.C. § 20507(c)(2)(B); *see also Arcia*, 772 F.3d at 1348 (“[T]he 90 Day Provision would not bar a state from investigating potential non-citizens and removing them on the basis of individualized information, even within the 90-day window.”). This much is not in dispute. *See* Org. Pl. Br. at 16-17 (agreeing with *Arcia* on this point); *See* U.S. Br. at 14 (same).

Virginia’s method for determining whether a person is a citizen clearly falls on the “individualized” side of the line. *Arcia*, 772 F.3d at 1348. As the declarations from Ashley Coles and Steve Koski set out in detail, DMV forwards the names of individual self-declared noncitizens to ELECT, which in turn forwards those self-declared noncitizens who appear on voter rolls to local registrars to begin the removal process. Coles Decl. ¶¶ 3–8; Koski Decl. ¶¶ 5, 12–20. There is another step of individualized review when the local registrar mails the Notice of Intent to Cancel

to each self-declared noncitizen, at which point he has an opportunity to correct any mistake in ELECT's records by mailing back within 14 days a pre-printed form affirming his citizenship. As the Supreme Court has noted with respect to this very type of procedure, "a reasonable person with an interest in voting is not likely to ignore notice of this sort," and thus can be expected to "take the simple and easy step of mailing back the pre-addressed" card. *Husted v. A. Phillip Randolph Institute*, 584 U.S. 756, 779 (2018). And if he does not return the pre-printed affirmation of citizenship, he is sent a Notice of Cancellation that invites him *a second time* to contact the local registrar to correct any mistake concerning his citizenship.

The process thus begins with a personal attestation of noncitizenship and ends in the removal of that person from the voter rolls only when he is sent two individualized letters offering opportunities for an individual corrective response. This is the very definition of an individualized process.

It is true that ELECT conducted a one-time *ad hoc* examination of certain individuals with recent DMV transactions who had legal presence documents indicating noncitizenship on file in DMV, coupled with a *fresh* search of the SAVE database. Coles Decl. ¶¶ 22–24, 29–31; Koski Decl. ¶¶ 21–22. But the *ad hoc* search—which was separate from the individualized process of removing self-declared noncitizens—was not "systematic," either. Simply having a residency document on file with the DMV that indicated noncitizenship was not enough for a person to have his name forwarded to the local registrar based on the one-time DMV search. Coles Decl. ¶¶ 23–24, 29–30; Koski Decl. ¶¶ 13–14, 19. Confirmation of noncitizen status through a new SAVE search was also required before ELECT sent a person's name to the registrar. Coles Decl. ¶ 24. Moreover, this process was a discrete exercise to ensure that noncitizens had not registered to vote, and ELECT completed it in late August 2024. Coles Decl. ¶ 25. It is not currently ongoing, and



ELECT has not sent any names to the general registrars over the last six weeks because of residency documents in the DMV's possession or a SAVE search. Coles Decl. ¶ 25; 33.

The programs in the cases cited by the United States and the Organizational Plaintiffs are far afield from Virginia's tailored inquiry into citizenship. For example, in *Aricia*, "the Secretary used a mass computerized data-matching process to compare the voter rolls with other state and federal databases, followed by the mailing of notices." 772 F.3d 1335, 1344 (11th Cir. 2017). The process lacked contemporaneous, individualized information from each potential noncitizen, so it fell on the "systematic" side of the line. *Id.* In *Mi Familia Vota*, the defendants conceded that their program was systematic, and it was again unlike Virginia's process because it only required "reason to believe" that a person was not a citizen, not documentary evidence like Virginia requires. *See* 691 F. Supp. 3d. at 1087–92.

The legislative history of the NVRA further demonstrates that Virginia has not crossed the "systematic" line here, for it makes clear what Congress meant by the term "systematic." The Senate report explains: "Almost all states now employ some procedure for updating lists at least once every two years. . . . About one-fifth of the states canvass all voters on the list. The rest of the states do not contact all voters, but instead target only those who did not vote in the most recent election . . . . Whether states canvass all those on the list or just the non-voters, most send a notice to assess whether the person has moved." S. Rep. No. 103-6, at 46. The House Report likewise gives examples of prohibited activity such as a "mailing<sup>7</sup> or a door to door canvas" to verify addresses. H.R. Rep. No. 103-9, at 30. Both mailings and door-to-door canvasses involve mass communication that is not targeted at any one individual based on personalized data, such as an

<sup>7</sup> A "mailing" is not the sending of any piece of mail but "mail sent at one time to multiple addressees by a sender (as for promotional purposes)." *Mailing*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/mailing> (last visited Oct. 22, 2024).

individual's recent attestation to the DMV that he is not a citizen.

**B. Defendants' Process for Removing Noncitizens Is Nondiscriminatory**

The Organizational Plaintiffs (but not the United States) also allege that Virginia's process for removing noncitizens does not qualify as "nondiscriminatory"<sup>8</sup> under the NVRA. 52 U.S.C. § 20507(b)(1). The Organizational Plaintiffs' theory is that the challenged actions violate the NVRA "by impermissibly classifying based on a registrant's national origin and placing discriminatory burdens on naturalized citizens." Org. Pl. Br. at 20. This theory is fatally flawed in multiple respects.

First, the Defendants are not classifying *anyone* based on that person's national origin or status as a naturalized citizen. A person is subject to the noncitizen removal process only when that person states contemporaneously on a DMV form that he is not an American citizen, or when his DMV documentation, confirmed by a fresh SAVE search, indicates a lack of citizenship. Coles Decl. ¶¶ 4–8, 22–25. Again, in either case ELECT sends the individual a form asking him to "take the simple and easy step," *Husted*, 584 U.S. at 779, of returning the preprinted affirmation of his citizenship to remain on the voter rolls.

Nothing in this process selects individuals on the basis of naturalized citizenship or national origin. If a natural-born citizen erroneously answers "no" to the citizenship question on a DMV form, he is treated exactly the same as a naturalized citizen who erroneously checks the "no" box. Both will receive a letter in the mail asking them to clarify their citizenship and will remain on the rolls if they respond to the letter confirming their citizenship status. Persons who were identified in the *ad hoc* program, those who had provided the DMV with documentation indicating

<sup>8</sup> Although their complaint alleges that the program is not "uniform," the preliminary injunction motion does not argue that the program fails the uniformity requirement, so this memorandum only focuses on the "nondiscrimination" requirement.

noncitizenship and for whom a fresh SAVE search confirmed ineligibility, were also subject to the same individualized process. Coles Decl. ¶ 23. Notably, because SAVE distinguishes naturalized citizens from noncitizens, naturalized citizens who were reviewed in this *ad hoc* process will not have received a Notice of Intent to Cancel. Coles Decl. ¶ 24.

Virginia’s noncitizen removal process is thus facially “nondiscriminatory.” What the Organizational Plaintiffs are really complaining about is an alleged disparate impact on naturalized citizens. But the NVRA requires discriminatory intent, not disparate impact alone, as the Supreme Court recently made clear in *Husted*. A majority of Justices rejected Justice Sotomayor’s argument in dissent that Ohio’s process for removing nonresidents from its voter rolls failed the NVRA’s “nondiscriminatory” requirement because it “disproportionately burden[ed]” minorities and other disadvantaged communities. 584 U.S. at 806–10. The majority succinctly responded that there was no “evidence in the record that Ohio instituted or has carried out its program with discriminatory intent.” *Id.* at 779.

The *Husted* Court’s interpretation of the term “nondiscriminatory” follows a long line of precedent in the context of election law interpreting the term to mean “without discriminatory intent.” Only a year before Congress enacted the NVRA, the Supreme Court determined the constitutionality of a statute that prohibited “write-in” votes. *See Burdick v. Takushi*, 504 U.S. 428, 430 (1992). There was no question that the statute had a disparate impact on certain groups, yet the Supreme Court applied the doctrinal test for politically “nondiscriminatory” regulations because the statute made no classifications on its face and was not enacted with discriminatory intent. *Id.*; *see also Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983) (equating “nondiscriminatory” with “generally applicable” in the election-law context). The Court has continued to use the term “nondiscriminatory” to reference intentional discrimination since then.

For example, in *Crawford v. Marion County Election Board*, 553 U.S. 181, 196-97, 206 (2008), both Justice Stevens’s plurality and Justice Scalia’s concurrence described Indiana’s voter-ID law as “nondiscriminatory” because it was facially neutral, despite its disparate impact on those who were less likely to possess identification.

To be sure, these cases did not concern alleged discrimination on the basis of national origin, but the fact remains that the term “nondiscriminatory” has been consistently used in the election-law context to refer to policies that do not discriminate intentionally. Thus, when the Supreme Court opined in *Husted* that intentional discrimination was required in a challenge to NVRA’s residential removal provisions, it was not merely interpreting the isolated term “nondiscriminatory” in the NVRA; it was drawing on the decades of practice that informed Congress’ own usage of the term.

Finally, Plaintiffs present no evidence that Virginia’s noncitizen removal program has a disparate impact in any event. There is no evidence that naturalized citizens are unusually likely to check a box misidentifying themselves as noncitizens. Additionally, the *ad hoc* program’s utilization of DHS’s SAVE database ensures that noncitizens are not at a disadvantage because of now-superseded documents on file with the DMV. Coles Decl. ¶¶ 23–24. Only those confirmed not to be citizens within the past 30 days are sent to the general registrars. The Organizational Plaintiffs cannot show that the SAVE process has a disparate impact because they simply misunderstand the process.

Absent any discrimination against naturalized citizens on the face of Va. Code Ann. § 24.2-427(C) or Executive Order 35, and without even an allegation of intentional discrimination, this claim must fail.

### III. The United States and the Organizational Plaintiffs Cannot Satisfy the Remaining *Winter* and *Merrill* Factors for a Preliminary Injunction.

#### A. Plaintiffs Will Not Be Irreparably Harmed

Plaintiffs must show that “they are likely to suffer irreparable harm without an injunction.” *N. Carolina State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 302 (4th Cir. 2020). To that end, it is not sufficient that they show “just a ‘possibility’ of irreparable harm.” *Di Biase v. SPX Corp.*, 872 F.3d 224, 230 (4th Cir. 2017) (quoting *Winter*, 555 U.S. at 22). Indeed, the “possibility that adequate compensatory or other corrective relief will be available at a later date . . . weighs heavily against a claim of irreparable harm.” *Sampson v. Murray*, 415 U.S. 61, 90 (1974).

The United States contends that “eligible U.S. citizens” will be irreparably harmed because they “risk disenfranchisement.” United States Motion at 17. But Virginia is not prohibiting a single eligible citizen from voting in the 2024 election. Any bona fide citizen who shows up to vote, even on election day itself, may still fill out a simple voter-registration form and vote that very day. *See* Va. Code Ann. § 24.2-420.1. Indeed, ELECT records indicate that same-day registration is an extremely effective way to vote, with nearly 100% of provisional ballots being counted. *See* footnote 2, *supra*. Casting a provisional ballot thus cannot be considered a “denial[] of a voter’s ‘right to participate in elections on an equal basis.’” United States Motion at 19. To the contrary, as Justice Stevens has explained, the ability “to cast a provisional ballot provides an adequate remedy for problem[s]” a person may encounter in the voting process. *Crawford v. Marion County Elec. Bd.*, 553 U.S. 181, 197-98 (2008) (opinion of Stevens, J.). Thus there is no irreparable harm to any citizen. *Cf. Wise v. Circosta*, 978 F.3d 93, 100, 103 (4th Cir. 2020) (en banc) (holding that there is no irreparable harm from a voting regulation that “does not in any way infringe upon a single person’s right to vote: all eligible voters who wish to vote may do so on or before Election

Day”). In this case then, any potential harm is mitigated, if not eliminated, by same-day registration and voting, and there is no need for the extraordinary relief of an injunction.<sup>9</sup>

If anything, irreparable harm will occur to eligible voters in Virginia if this Court enters either of the proposed injunctions. Every illegal vote cancels out a valid vote. Both the United States and the Organizational Plaintiffs ask the Court to re-enroll self-identified noncitizens without any way to verify their citizenship. *See* Org. Pl. Proposed Order at 2 (ECF 26-25); U.S. Proposed Order ¶ 4 (ECF 9-24). In short, putting noncitizens back on the rolls and allowing them to vote dilutes the votes of actual citizens in an irreparable way. As this Circuit has explained, “there can be no do-over and no redress” for this injury to legal voters “once the election occurs.” *See League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). The requested injunctive relief could also irreparably harm noncitizens who are re-enrolled, by confusing them into believing that they may vote, when doing so is actually a crime. *See* p. 5, *supra*.

Irreparable harm is also lacking for the Organizational Plaintiffs for largely the same reasons that they fail to show any concrete harm at all. Again, these plaintiffs have not identified a single member who is an eligible voter but is threatened with being unable to vote in the upcoming election; their alleged organizational injury is a voluntary redirecting of funds from

<sup>9</sup> Perhaps realizing that same-day registration is a perfectly valid way to cast a vote, the United States speculates that a citizen could have accidentally checked the wrong box at the DMV, missed both of the notices mailed to his house, and then remembered that he wants to vote absentee within 21 days of the election but cannot obtain a ballot because he is not registered, and is unavailable to head to the polling place in the three weeks that Virginia allows same-day in-person registration. United States Motion at 18-19. There is no evidence that this hypothetical scenario will happen to a single person, much less an identifiable one. It is black-letter law that “irreparable injury” must be “likely in the absence of an injunction,” and speculative injuries do not count. *Winter*, 555 U.S. at 22. Fanciful hypotheticals are not “likely.” *Id.* Further, as discussed below, changing Virginia’s absentee ballot deadline at this late date would be highly burdensome, likely to lead to errors and confusion, and contrary to *Purcell*. *See infra*, Section III.C.

certain organizational goals to other concerns. *See generally* Amended Compl. ¶¶ 19-34. Tellingly, the Organizational Plaintiffs hardly even argue that the alleged diversion of resources is sufficiently irreparable to obtain a preliminary injunction.

There is another reason that the diversion-of-resources theory makes granting an injunction particularly inequitable: The only remedy the Organizational Plaintiffs ask for here is the most drastic one in a federal judge’s toolkit, a universal injunction. *See Green v. HM Orl-FL, LLC*, 601 U.S. \_\_ (statement of Kavanaugh, J.) (Slip op. at 1–3) (2023) (questioning the authority of district court to issue injunctions that prohibit enforcing the law against everyone). Universal injunctions are extremely disfavored, and the Organizational Plaintiffs should not be allowed to use the fact that they did not identify an injured member-voter to obtain one. *See Lewis v. Casey*, 518 U.S. 343, 358 (1996) (concluding that only the actual persons suing are “the proper object of this District Court’s remediation”).

Finally, the process that Plaintiffs are suing to enjoin is not ongoing. As Commissioner Beals explained in her September 4 testimony, ELECT stopped sending self-identified noncitizens to local registrars on October 15, as it had planned all along. *See Beals Statement, supra*, at 3:10:46 pm. The reasons are two-fold. First, it typically takes a total of 21 days from the mailing of a Notice of Intent to Cancel until the person is actually removed from the registration. Coles Decl. ¶ 11. Therefore, notices sent by local registrars after October 15, 2024 would have no effect for the election. Second, the Virginia registration process is required by law to shut down 21 days before an election (aside from same-day registration). *See Va. Code Ann. § 24.2-416*. Because the challenged process has already concluded, Defendants are not engaged in any prospective conduct that a preliminary injunction could affect. *See p. 21, supra*. And the retrospective remedies they request are barred by both sovereign immunity, *ibid*, and the *Purcell* doctrine, *see p. 39, infra*.

The lack of ongoing conduct is especially relevant to the *ad hoc* process. ELECT not only stopped sending the names of people who failed a recent SAVE search in late August, but precisely because each person removed was verified as a noncitizen through a SAVE search, the only effect of an injunction would be to add noncitizens back to the voter rolls. None of these noncitizens can legally vote, so none of them has suffered an irreparable injury. With these facts in mind, enjoining the Defendants from continuing the process will not have real-world implications.

**B. The Equities Favor the Defendants**

Nor can the Organizational Plaintiffs or the United States satisfy the last two *Winter* factors—the balance of equities and the public interest. The United States contends that these factors merge in its suit against the Defendants because it is presumed to be acting in the public interest. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). That may be the case in a lawsuit against a private party, but Virginia is also sovereign and has an equal claim to be acting in the public interest within its borders. *Cf. United Nuclear Corp. v. Cannon*, 696 F.2d 141, 144 (1st Cir. 1982) (“The state is charged with representing the public interest.”).

Regardless of how the presumptions shake out, the balance of the equities and public interest favor the Defendants in these cases. Both the Organizational Plaintiffs and the United States delayed unconscionably in bringing their lawsuits. The law requiring Virginia to remove noncitizens from its voter rolls was signed by then-Governor Kaine, and precleared by the Justice Department, in 2006. Yet neither the Organizational Plaintiffs nor the United States challenged its operation in the many general elections since then. And they brought these suits two months into the three-month quiet period and just weeks before a presidential election.

Because of both groups’ unjustified delay, this Court has been forced to resolve their motion for a preliminary injunction on an extremely short timetable with rushed briefing and discovery. “Equity aids the vigilant, not those who sleep on their rights” and then sprint for



emergency relief. *Lyons P'ship v. Morris Costumes Inc.*, 243 F.3d 789, 797 (4th Cir. 2001).

**C. *Purcell* Does Not Allow an Injunction at This Point**

Finally, an injunction under these circumstances would violate the *Purcell* doctrine, which counsels against judicially ordered changes to electoral processes on the eve of an election. *See Purcell v. Gonzales*, 549 U.S. 1 (2006) (per curiam). The Supreme “Court has repeatedly emphasized that federal courts ordinarily should not alter state election laws in the period close to an election.” *DNC v. Wisconsin State Legis.*, 141 S. Ct. 28, 30 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). The rationale for the *Purcell* principle is straightforward: “When an election is close at hand, the rules of the road should be clear and settled . . . because running a statewide election is a complicated endeavor.” *Id.* at 31. *Purcell* instructs courts to avoid “judicially created confusion,” *RNC v. DNC*, 140 S. Ct. 1205, 1207 (2020) (per curiam), by declining to issue injunctions that would “alter state election laws in the period close to an election,” *Moore v. Harper*, 142 S. Ct. 1089, 1089 (2022) (Kavanaugh, J., concurring in denial of application for stay).

As previously noted, *see* p. 15, *supra*, under *Purcell*, a federal court should enjoin state election officials close to an election only if the Plaintiffs satisfy four criteria that are stricter than the traditional *Winter* factors. They satisfy none of them.

First, the merits are not “entirely clearcut in favor of the plaintiffs,” *Merrill*, 142 U.S. at 881 (opinion of Kavanaugh, J.), given that the majority of federal judges to confront the issue have concluded that the NVRA does not apply at all to void *ab initio* registrations. To the contrary, as demonstrated above, the merits are “in favor of” the Defendants.<sup>10</sup> Nor will Plaintiffs suffer

<sup>10</sup> From the Supreme Court’s recent caselaw, it is clear that the “entirely clearcut” burden is a formidable one. For example, the Supreme Court granted a stay in *Merrill* on *Purcell* grounds but also granted certiorari and later affirmed the lower court. 142 S. Ct. at 879. The takeaway here is that *Purcell* does real work, even when a claim may be meritorious.

irreparable harm absent the requested injunction, for the reasons explained above: every single eligible citizen can cast a vote in Virginia, regardless of whether that person is on the rolls before election day.

The last two *Purcell* factors also cut against the Plaintiffs. Both the United States and the Organizational Plaintiffs could have brought their claims at the beginning of the 90-day quiet period, but both waited two months to initiate a lawsuit. Further, the Department of Justice precleared the noncitizen removal program in 2006, and records show removals of noncitizens during the so-called quiet period over at least the past 15 years. *See* Bryant Decl. Ex. A; Coles Decl. ¶ 17. Plaintiffs argue that the nature of the quiet period means that *Purcell* applies with less force, as the Quiet Period Provision only takes effect within 90 days of an election. But the time-limited nature of the quiet period is all the more reason for plaintiffs to file as soon as possible. And even if *Purcell* would not prohibit injunctions against ongoing conduct during the quiet period, there is no such ongoing conduct here. *See* p. 21, *supra*. The *Purcell* doctrine applies with full force to Plaintiffs' remaining requests for preliminary relief, which would require Virginia to alter its election laws significantly very shortly before the election. Among other things, the requested relief would require Virginia to make changes to its voter rolls after the state-law period for doing so has closed, *see* p. 12, *supra*, apparently require Virginia to provide absentee ballots past the state-law deadline for requesting such ballots, United States Proposed Injunction ¶ 5(c), and require ELECT to send widespread mailings and guidances not provided for by state law.

Such significant changes this late in the game will cause “significant cost, confusion, and hardship” on the Virginia election machinery. *Merrill*, 142 S. Ct. at 881 (opinion of Kavanaugh, J.). The Organizational Plaintiffs seek an injunction ordering Defendants to add back to the voter rolls every person removed for self-proclaiming noncitizenship or presenting legal presence

documents showing noncitizenship and failing a new SAVE search during the *ad hoc* process. *See* Org. Pl. Proposed Injunction at 2. Ordering such relief will inevitably require Virginia to place noncitizens on its voter rolls only two weeks before an election, thus diluting the votes of eligible citizens and potentially confusing noncitizens into thinking that they can vote, exposing them to criminal liability. They also seek a mandatory injunction instructing registrars to send out notices rescinding the prior notices that asked self-declared noncitizens to confirm citizenship. *Id.* Plaintiffs also want this Court to force the Defendants to send out additional mailings to potentially affected voters and “to issue guidance to county registrars in every local jurisdiction” concerning their ability to remove noncitizens. *Id.* As the Coles declaration explains, attempting to send such notices and to give last-minute guidance to general registrars will create confusion and make even-handed administration of the election much more difficult. Coles Decl. ¶¶ 44–46. And all of this would cause a massive influx of work in the registrars’ offices and confusion among voters just days before a presidential election. Coles Decl. ¶¶ 44–46.

The injunction requested by the United States is narrower in some respects but still undeniably implicates *Purcell*. The United States asks for an injunction forcing the Defendants to place persons who indicated that they are not citizens back on the voter rolls without any means for verifying that they actually are citizens and removing them was a mistake, and it wants Virginia to conduct a last-minute mailing to these likely noncitizens. U.S. Proposed Order ¶ 4. It also requests an injunction that this mailing inform these persons that they “may cast a regular ballot through any other method, including requesting and voting an absentee ballot by mail.” *Id.* ¶ 5(c). But the last day to request such an absentee ballot is October 25, leaving no time for any such person to do so without making highly burdensome last-minute changes to Virginia’s election

process. Coles Decl. ¶ 42. This type of last-minute federal-court supervision of elections sows the chaos that *Purcell* is designed to avoid.

For just these kinds of reasons, the Fourth Circuit invoked *Purcell* in the last presidential election to deny an injunction of a state voting regulation when, as here, early voting was already underway. *Wise v. Circosta*, 978 F.3d 93, 98–99, 103 (4th Cir. 2020). And the other federal courts of appeals have similarly invoked *Purcell* to stay district-court injunctions of state election laws in the time leading up to an election. See, e.g., *League of Women Voters of Fla., Inc. v. Florida Sec. of State*, 32 F.4th 1363, 1371 (11th Cir. 2022); *Thompson v. Dewine*, 959 F.3d 804, 813 (6th Cir. 2020); *Short v. Brown*, 893 F.3d 671, 680 (9th Cir. 2018). Just last week the Fifth Circuit invoked *Purcell* in granting a stay of an injunction issued against election officials. See *La Union de Pueblo Entro v. Abbott*, -- F.4th \_\_\_, 2024 WL 4487493, at \*3 (Oct. 16, 2024); see also *id.*, at \*5 (Ramirez, J., concurring in the judgment).

In sum, “the balance of equities is influenced heavily by *Purcell* and tilts against federal court intervention at this late stage.” *Wise*, 978 F.3d at 103.<sup>11</sup>

## CONCLUSION

For the foregoing reasons, this Court should deny the Motions for Preliminary Injunction.

<sup>11</sup> To the extent that the United States asserts that “local registrars cannot decline to cancel” the registration of someone sent to them is a reason to grant the injunction, it is mistaken. The Organizational Plaintiffs’ own expert gives examples of registrars taking steps to ensure that the persons being sent a Notice of Intent to Cancel are actually noncitizens. See McDonald Declaration at 9; Va. Code § 24.2-427(B).

Dated: October 22, 2024

**RESPECTFULLY SUBMITTED,**

**COMMONWEALTH OF VIRGINIA;**  
**VIRGINIA STATE BOARD OF ELECTIONS;**  
**SUSAN BEALS**, in her official capacity as Virginia  
Commissioner of Elections; **JOHN O'BANNON**,  
in his official capacity as Chairman of the State  
Board of Elections; **ROSALYN R. DANCE**, in her  
official capacity as Vice-Chairman of the State  
Board of Elections; **GEORGIA ALVIS-LONG**, in  
her official capacity as Secretary of the State Board  
of Elections; **DONALD W. MERRICKS** and  
**MATTHEW WEINSTEIN**, in their official  
capacities as members of the State Board of  
Elections; and **JASON MIYARES**, in his official  
capacity as Virginia Attorney General

By:  /s/ Charles J. Cooper

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**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that on October 22, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all parties of record.

/s/ Charles J. Cooper  
Charles J. Cooper (Pro Hac Vice)  
*Counsel for the Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

VIRGINIA COALITION FOR IMMIGRANT  
RIGHTS, *et al.*,

*Plaintiffs,*

v.

SUSAN BEALS, in her official capacity as  
Virginia Commissioner of Elections, *et al.*,

*Defendants.*

Case No. 1:24-cv-1778

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

*Defendants.*

Case No. 1:24-cv-1807

**DECLARATION OF ASHLEY COLES**

I, Ashley Coles, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I currently serve as Senior Policy Analyst and Chief Records Officer at the Virginia Department of Elections (ELECT). I have served in this role since May 28, 2024. I began my employment at ELECT in the role of Policy Analyst on January 25, 2021.

2. In my capacity as Senior Policy Analyst and Chief Records Officer at ELECT, I am familiar with ELECT's policies and practices, its relationships with both the Virginia Department of Motor Vehicles (DMV) and the local general registrars of each jurisdiction in Virginia, as well as the provisions of Virginia law governing Virginia's voter list.

3. Pursuant to Virginia Code § 24.2-410.1, signed into law in 2006 by then-Governor Timothy Kaine, ELECT works with the DMV and general registrars to ensure that noncitizens are not registered to vote.

4. ELECT receives from the DMV data listing information for all persons who declare that they are not citizens of the United States on DMV forms related to eligible transactions.

5. The information that the DMV sends to ELECT for these persons contains extensive data fields for each individual that allow both ELECT and general registrars to accurately compare the individual to the list of registered voters. ELECT's records show that those data fields include, among other things, full name, full social security number, birth date, address, sex, DMV customer number, and transaction date.

6. When ELECT receives this information from the DMV, it electronically compares the information for each self-declared noncitizen with voter information contained in ELECT's statewide voter registration system, the Virginia Election and Registration Information System (VERIS), to identify potential matches with registered voter records.

7. In contrast to ELECT's electronic process for comparing the noncitizen information obtained from the DMV with VERIS records to identify potential matches, general registrars conduct a manual review of each potential match received from ELECT on an individual basis to confirm that the noncitizen and the registered voter identified in VERIS are the same person. If after reviewing the potential match, the registrar determines that the noncitizen and the registered voter identified in VERIS are different people, the registrar can reject the match.

8. If the general registrar determines that the noncitizen and the registered voter are the same person, then the general registrar mails the individual a Notice of Intent to Cancel that individual's voter registration.



9. A Notice of Intent to Cancel explains that the person recently indicated on a DMV form that he may not be a citizen and advises that if the information is incorrect, the person should sign an Affirmation of Citizenship form and return it within 14 days.

10. The general registrar does not cancel the individual's registration to vote upon sending this Notice of Intent to Cancel. Instead, any individuals who receive a Notice of Intent to Cancel will only be removed from the voter rolls if they fail to respond to the registrar's request to correct an error in ELECT's information about their citizenship status within 14 days.

11. By default, however, these cancellations are not effective in VERIS until 21 days have elapsed without receipt of the person's attestation of citizenship, thus allowing a seven-day grace period on top of the two weeks the individual has to respond.

12. If a person does not respond and their voter registration is cancelled through VERIS, the registrar will send an additional notice advising that the person's registration has been cancelled. That notice again advises the person to contact the registrar if the removal was incorrect and provides a phone number to do so.

13. If, despite attesting to the DMV that he is not a citizen and then failing to respond to the general registrar's notice, a removed individual is in fact a U.S. citizen, that person may re-register to vote using the same registration process as any other voter.

14. If there is any person who was removed from the voter rolls pursuant to Virginia Code § 24.2 427(C) after failing to return the attestation of citizenship and who has not re-registered by the close of the ordinary registration period on October 15, but who is in fact an eligible citizen, then that person may same-day register in person at an early voting site during the early voting period or at the appropriate precinct on election day and may immediately vote a provisional ballot.

15. As with all voter registrations, the person must attest to his citizenship under penalty of perjury.

16. There is no requirement to provide documentary proof of citizenship, nor can the prior removal from the rolls due to noncitizenship be held against the individual in any way.

17. ELECT records demonstrate that it has consistently sent information about noncitizens who match VERIS records for registered voters to local general registrars, including during the 90-day period before a primary or general election, since at least 2010.

18. Pursuant to Executive Order 35, on August 19, 2024, ELECT began receiving from the DMV information from the previous day's transactions on a daily basis.

19. In addition, the DMV continued sending de-duplicated monthly files of the same information.

20. ELECT also receives information from the DMV, consistent with Virginia Code § 46.2-328.1(E), when a person who has declared that he is a citizen but has legal presence documentation on file with the DMV indicating that he is not. Legal presence documentation includes permanent resident cards, asylum status documents, employment authorization documents, and refugee travel documents.

21. Such legal presence documentation may be outdated, unlike the contemporaneous information for people who declare noncitizenship on a DMV form relating to an eligible transaction. Accordingly, it is ELECT's general policy not to conduct any comparisons of these names with voter information contained in VERIS unless ELECT has received verification of an individual's current immigration status or naturalized or derived citizenship status through the Department of Homeland Security as provided under Virginia Code § 24.2-404(E) within the last

30 days before conducting a comparison. No actions are taken to remove these people from the voter rolls without said verification.

22. Although the DMV information for individuals whose legal presence documentation on file indicates noncitizenship usually does not reach the general registrars, to comply with Virginia Code § 24.2-404(A)(4)(v) ELECT collaborated with the DMV on a one-time, *ad hoc* basis to analyze DMV transactions that occurred between July 1, 2023, and June 30, 2024, in which individuals indicated that they were U.S. citizens but their legal presence documentation on file with the DMV indicated noncitizen status.

23. To individually verify citizenship during this search, the DMV determined each person's current citizenship status through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database, which can determine whether a noncitizen has been naturalized.

24. Only persons who had a SAVE verification confirming noncitizen status within the preceding 30 days had their information passed along to the registrars in the *ad hoc* process.

25. ELECT ultimately identified 1,274 potential matches between individuals identified as noncitizens in the SAVE database and registered voter records in VERIS, which ELECT then transmitted to general registrars on August 28, 2024, for each jurisdiction to act upon, as detailed above.

26. Conducting a SAVE verification involves an electronic query inputting an individual's full name, date of birth, and document number that indicates legal presence into the SAVE database.

27. SAVE electronically verifies immigration status or naturalized or derived citizenship and provides a verification response with the applicant's current immigration status or naturalized or derived United States citizenship information.

28. The SAVE verification results will either confirm that the person is a citizen, confirm that the person is not a citizen, or state that additional verification is required.

29. ELECT only sent information to general registrars on individuals with a verification status that affirmatively showed the person is a noncitizen in this *ad hoc* process.

30. ELECT did not take any action, or send any individual's name or information to general registrars, based on information from the DMV pertaining to any individual's legal presence documentation unless the individual's current legal citizenship status had been verified within the last 30 days through the SAVE database.

31. ELECT's individualized approach to SAVE verification means that no person is removed from voter rolls based solely on potentially outdated legal presence records on file with the DMV.

32. Just as with individuals that self-declare noncitizenship, any individuals identified through SAVE verification are provided a Notice of Intent to Cancel and by default afforded a total of 21 days—the standard 14 days plus the 7-day grace period before the cancellation becomes effective in VERIS—to submit an Affirmation of Citizenship form to the general registrar. These individuals are also provided with the additional cancellation notice if they fail to respond to the Notice of Intent to Cancel.

33. ELECT ceased transmitting any information to general registrars regarding potential noncitizens on the voter rolls after October 14, 2024, the day before the statutory deadline to register to vote in the ordinary course.

34. When a same-day registrant votes a provisional ballot, the general registrar researches the individual's eligibility to register and to vote in their jurisdiction.

35. Based on that research, the local electoral board determines whether the provisional ballot should be counted.

36. In determining whether to count such a provisional ballot, neither the general registrar nor the electoral board considers the registrant's prior removal from the rolls due to noncitizenship.

37. The general registrar and the electoral board consider only whether the registrant is an eligible voter in the precinct in which he cast the provisional ballot.

38. If the electoral board determines that the registrant is qualified to vote, the ballot will be counted.

39. A person's prior removal under Virginia Code § 24.2 427(C), or prior declaration or submission of documents to DMV of noncitizen status, is not a reason to reject a provisional ballot, so long as the person attests on the voter registration form under penalty of perjury that the person is a citizen.

40. The period immediately preceding a general election is critical, with ELECT working at full capacity in conjunction with general registrars to ensure that the election is carried out fairly and accurately. To enable an orderly general election, ELECT imposes deadlines on the registration and voting process in the days leading up to the general election.

41. For the November 2024 General Election, those deadlines include the last day to register to vote or update an existing registration on October 15, 2024. By law, see Virginia Code § 24.2-416(A), the registration records are closed 21 days before an election, and ELECT ceases

to transmit voter citizenship information, or any other basis for voter removal other than death, to general registrars at this time.

42. The last day to apply to receive an absentee ballot by mail is on October 25, 2024.

43. Likewise, the period immediately following the general election includes a carefully choreographed series of deadlines to ensure rapid, accurate counting of votes prior to the State Board of Election's certification of the November 2024 General Election results on December 2, 2024. Among these deadlines are the November 8, 2024, deadline for absentee ballots properly returned by mail to be received by general registrars for counting, and ELECT's internal deadline of November 27, 2024, to verify the November 2024 General Election results.

44. Given these deadlines and the importance of clarity in counting votes and ultimately certifying the election results, along with my understanding of ELECT's resources and obligations regarding the November 2024 General Election, I believe that new court-ordered changes to those deadlines or impositions of the new requirements requested by the Plaintiffs in this case may substantially burden ELECT at a time when its limited resources are already wholly allocated to meet existing requirements and deadlines. For instance, a requirement to develop and distribute new guidance to local general registrars on short notice may work a substantial hardship on ELECT, which would have to reallocate already stretched resources to create that guidance and would create a significant risk of confusion and miscommunication at the general registrar level.

45. Similarly, a requirement to alter the voter rolls by reinstating voter registrations outside the same-day registration process, which is already available to all eligible voters who are not currently registered to vote, after the October 15, 2024, deadline for changes to the voting rolls would require substantial ELECT resources that would have to be reallocated from existing election-critical assignments while also increasing the risk that ineligible voters are erroneously

added to the voter list. In addition, a requirement that reinstated individuals be able to request absentee ballots by mail after the October 25, 2024 deadline for requesting them has passed would work a substantial hardship on the local general registrars who send ballots.

46. Finally, a requirement to send a new mailing to a subset of Virginia residents providing new guidance about their ability to participate in the November 2024 General Election—and to share the information included in this mailing through a public website and the press—would substantially burden ELECT by requiring reallocation of resources to develop the mailing and public statements while creating a marked risk of voter confusion when the general election is imminent.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on October 22, 2024



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Ashley Coles  
Senior Policy Analyst and Chief Records Officer  
Virginia Department of Elections

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

VIRGINIA COALITION FOR IMMIGRANT  
RIGHTS, *et al.*,

*Plaintiffs,*

v.

SUSAN BEALS, in her official capacity as  
Virginia Commissioner of Elections, *et al.*,

*Defendants.*

Case No. 1:24-cv-1778

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

*Defendants.*

Case No. 1:24-cv-1807

**DECLARATION OF STEVEN L. KOSKI**

I, Steven L. Koski, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I currently serve as Legal and Compliance Advisor at the Virginia Department of Elections (ELECT). I have served in this role since June 10, 2024. I began my employment at ELECT in the role of Policy Analyst on June 10, 2022.

2. In my capacity as Legal and Compliance Advisor at ELECT, I am familiar with ELECT's policies and practices, its relationship with the Virginia Department of Motor Vehicles (DMV), and the provisions of Virginia law governing Virginia's voter list.

3. The National Voter Registration Act requires every state motor vehicle authority to have in place procedures such that a person applying for a motor vehicle driver's license can



simultaneously register to vote in the same transaction. This process is known as “motor voter,” and when conducted online or via electronic terminal in-person at a DMV customer service center, it is known as “electronic motor voter” (EMV).

4. In 2006, the Virginia legislature passed, then-Governor Timothy Kaine signed, and the Department of Justice precleared, amendments to the Virginia Code that streamlined implementation of the National Voter Registration Act.

5. The DMV asks all persons who apply for any document, or a renewal of a document, issued pursuant to the provisions of Chapter 3 of Title 46.2 of the Code of Virginia—except for applicants for identification privilege cards or driver privilege cards—to attest whether they are citizens of the United States. The DMV also provides the option to decline to answer and to decline to have this information transmitted to ELECT for voter registration purposes. Individuals applying for identification privilege cards or driver privilege cards must attest that they are not citizens of the United States as part of the application for those credentials.

6. The DMV asks the citizenship question when issuing, renewing, replacing, or changing the address associated with a driver’s license or identification card.

7. All individuals conducting a motor voter-eligible transaction, whether in-person at a customer service center or online on the DMV website, are presented with the citizenship question and given the option to decline to answer.

8. Individuals who respond to the citizenship question by indicating that they are citizens also receive a warning that intentionally making a materially false statement during the transaction constitutes election fraud and is punishable under Virginia law as a felony.

9. Unless a person engaging in one of these eligible transactions affirmatively declines, everyone conducting such a transaction is also presented with a voter registration application.

10. Because one must be a citizen to vote, the voter registration application asks about citizenship.

11. If a person inputs that he is not a citizen, a second screen appears stating that noncitizens cannot vote and asking the person to confirm that he is not a citizen.

12. Virginia law requires the DMV to “furnish monthly to the Department of Elections a complete list of all persons who have indicated a noncitizen status” during an eligible motor voter transaction. Va. Code § 24.2-410.1(A).

13. This list does not include individuals who decline to respond to the citizenship question or leave it blank.

14. Rather, the list includes only people who have affirmatively indicated that they are not U.S. citizens.

15. The DMV also transmits to ELECT information about individuals who apply for a driver privilege card or an identification privilege card because as part of the application for those credentials, the applicant must attest that he is not a citizen of the United States.

16. In addition, the DMV obtains information about individuals’ legal presence status when they submit documentation of their residency when applying for certain credentials, such as learner’s permits or driver’s licenses.

17. Some documentation of residency will indicate that the individual is not a citizen, such as documentation of lawful permanent residence, asylum status, or a resident alien card.

18. The DMV also transmits to ELECT information about individuals who engage in an eligible transaction and affirm that they are citizens but whose documentation on file with the DMV indicates that they are not citizens.

19. The DMV does not require new legal presence documentation for many transactions subsequent to the initial driver's license/identification card transaction, although DMV still provides to ELECT information concerning individuals who conduct these transactions and previously provided a document indicating noncitizen status. Therefore, individuals on this list may have become citizens since first providing that documentation to the DMV and initially having it verified through the Department of Homeland Security Systematic Alien Verification for Entitlements (SAVE) database. Recognizing this possibility, ELECT does not take any action based on legal presence information the DMV has on file that is inconsistent with an attestation of citizenship unless the individuals' current legal status has been recently—within 30 days or fewer before any action—verified through the SAVE database.

20. Based upon ELECT's records, the list DMV provides to ELECT includes data fields for the full name, social security number, birth date, address, sex, DMV customer number, EMV transaction timestamp, DMV legal presence code, full response sent to DMV by SAVE, verification/case number returned from the SAVE database for that individual, and types of documents used to prove legal presence.

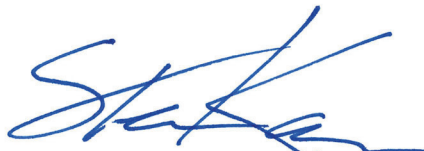
21. ELECT collaborated with the DMV to analyze DMV transactions that occurred between July 1, 2023, and June 30, 2024, in which individuals indicated that they were U.S. citizens but had documentation on file with the DMV indicating noncitizen status.

22. The DMV conducted new SAVE verifications to obtain the most recent citizenship information for those individuals.

23. ELECT ultimately identified 1,274 potential matches between individuals identified in this analysis and registered voter records, which ELECT then provided to the local general registrar for each potentially matched individual's jurisdiction.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on October 22, 2024



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Steven L. Koski  
Legal and Compliance Advisor  
Virginia Department of Elections

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

VIRGINIA COALITION FOR IMMIGRANT  
RIGHTS, *et al.*,

*Plaintiffs,*

v.

SUSAN BEALS, in her official capacity as  
Virginia Commissioner of Elections, *et al.*,

*Defendants.*

Case No. 1:24-cv-1778

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

*Defendants.*

Case No. 1:24-cv-1807

**DECLARATION OF GRAHAM K. BRYANT**

I, Graham K. Bryant, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am Deputy Solicitor General in the Office of the Virginia Attorney General. I am a member in good standing of the Virginia bar. I am admitted to practice in this Court.

2. I make this declaration based upon my personal knowledge, including facts ascertained through consultation with executive personnel in the Virginia Department of Elections (ELECT) and the Virginia Department of Motor Vehicles (DMV) who have assisted me in gathering this information and these materials. I make this declaration in support of Defendants' opposition to the Plaintiffs' motions for preliminary injunctions.

3. Attached as Exhibit A is a true and correct copy of the December 14, 2006 letter from John Tanner, then chief of the Voting Section of the Civil Rights Division of the United States Department of Justice, regarding preclearance of 2006 Va. Acts. ch. 926 under Section 5 of the Voting Rights Act.

4. Attached as Exhibit B are true and correct copies of the DMV's current applications for a driver's license, learner's permit, identification card, and commercial driver's license; change of address form; and voter registration questionnaire.

5. Attached as Exhibit C is a true and correct copy of the DMV's current application for a driver privilege card or an identification privilege card.

6. Attached as Exhibit D is a document first depicting true and correct copies of the screens presented to DMV customers completing an electronic motor voter transaction online on the DMV's website, and then depicting true and correct text representations of the screens presented to DMV customers completing an electronic motor voter transaction in person using credit card terminals at DMV customer service centers.

7. Attached as Exhibit E is a true and correct copy of ELECT's current Standard Operating Procedure, Voter Registration List Maintenance, Department of Motor Vehicles: Full SBE & Non-Citizen Files (revised Aug. 8, 2024), with minimal redactions to protect personal information of DMV employees and confidential information regarding DMV's internal computer systems.

8. Attached as Exhibit F is a true and correct copy of ELECT's publication, Hopper Processing and Information (revised Oct. 5, 2023), containing redactions necessary to protect the confidentiality of ELECT's internal computer systems.

9. Attached as Exhibit G is a true and correct copy of a Notice of Intent to Cancel and accompanying Affirmation of Citizenship form mailed by Fairfax County's general registrar on September 3, 2024, redacted to protect personal information.

10. Attached as Exhibit H is a true and correct copy of a voter registration cancellation notice sent by Arlington County's general registrar, redacted to protect personal information.

11. Attached as Exhibit I is Executive Order 35 issued by Governor Glenn Youngkin on August 7, 2024.

12. Attached as Exhibit J is a true and correct copy of an official advisory that ELECT issued to the general registrars for each locality on October 16, 2024 with the subject "Updated List Maintenance Calendar and Close of Books—Start of Same Day Registration."

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on October 22, 2024 in Richmond, Virginia.



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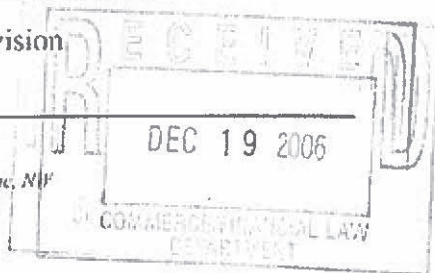
GRAHAM K. BRYANT (Va. Bar #90592)

*Deputy Solicitor General*



U.S. Department of Justice

Civil Rights Division



JKT:MSR:ER:jdh  
DJ 166-012-3  
2006-6674

Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

December 14, 2006

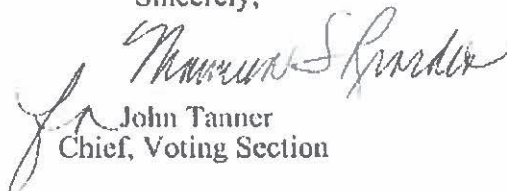
J. Jasen Eige, Esq.  
Senior Assistant Attorney General  
900 East Main Street  
Richmond, Virginia 23219

Dear Mr. Eige:

This refers to the Department of Motor Vehicles' procedures for implementing Chapter 926 (2006) for the State of Virginia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on October 30, 2006.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

  
John Tanner  
Chief, Voting Section



Completion of this section is requested but not required to apply for a driver's license or ID Card. (Virginia Code §2.2-3806)

**INFORMATION FOR THE DEPARTMENT OF ELECTIONS**

**Mail In / DMV Connect Only** - Are you a citizen of the United States of America?

**YES** (INITIAL BOX)

**NO** (INITIAL BOX)

**Mail In / DMV Connect Only** - Do you want to register to vote or change your voter registration address?

**YES** (INITIAL BOX)

**NO** (INITIAL BOX)

**INFORMATION FOR THE VIRGINIA TRANSPLANT COUNCIL**

Yes, I would like to become an organ, eye and tissue donor.

DL 1P (07/01/2024)



Virginia Department of Motor Vehicles  
Post Office Box 27412  
Richmond, Virginia 23269-0001  
www.dmv.virginia.gov

**DRIVER'S LICENSE AND IDENTIFICATION CARD APPLICATION**

LOG #

**Purpose:** Use this form to apply for a driver's license, learner's permit, or identification card.

**Instructions:** Submit completed application to any DMV Customer Center. Complete front and back of this application.

**APPLICATION TYPE**

**REAL ID:** ID requirements for domestic air travel and access to secure federal facilities change May 7, 2025. A REAL ID meets these requirements.

**Would you like to apply for a REAL ID license/identification card?** (Not applicable if applying for a Motorcycle Learner's Permit)

- Yes - I would like to use my license/identification card as ID to board a domestic flight or enter a secure federal facility or military base on or after May 7, 2025. View the documents you'll need at [dmvNOW.com/REALID](http://dmvNOW.com/REALID) or ask for a brochure.
- No - I acknowledge my license/identification card will display "Federal Limits Apply" and I will need another form of ID to board a domestic flight or enter a secure federal facility or military base on or after May 7, 2025.

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Driver's License  | <input type="checkbox"/> Motorcycle Learner's Permit (classification not applicable)                     | <input type="checkbox"/> Identification (ID) Card  |
| <input type="checkbox"/> Learner's Permit and Driver's License   | <input type="checkbox"/> Driver's License with School Bus Endorsement (to carry less than 16 passengers) | <input type="checkbox"/> Hearing Impaired ID Card  |
| <input type="checkbox"/> Driver's License with Motorcycle (complete Motorcycle Classification section below) | <input type="checkbox"/> Driver's License Testing for Foreign Diplomats                                  | <input type="checkbox"/> Emancipated Minor ID Card |
| <input type="checkbox"/> Motorcycle Only License (complete Motorcycle Classification section below)          | <b>*Commercial Driver's License (CDL)</b> applicants must complete the CDL Application ( <b>DL2P</b> )   |  |

**Motorcycle Classification**

- Maintaining current Virginia Motorcycle Classification
- Add, Upgrade or Transfer Motorcycle Classification or obtain Motorcycle Only License. Additional testing may be required. Check applicable box below.
  - M 2 (2 wheels)                       M 3 (3 wheels)                       M (both 2 and 3 wheels)

**Replacement License or Identification Card** (check one of the following):  I am surrendering my current license or ID card.

I certify I cannot surrender my current license or ID card because it is:  Lost  Stolen  Destroyed

**APPLICANT INFORMATION**

**NOTE: YOUR ADDRESS BELOW MUST BE CURRENT. THE U.S. POSTAL SERVICE WILL NOT FORWARD YOUR LICENSE OR ID CARD.**

FULL LEGAL NAME (last, first, middle, suffix)				SOCIAL SECURITY NUMBER (SSN)		<input type="checkbox"/> I HAVE NOT BEEN ISSUED A SSN.	
BIRTHDATE (mm/dd/yyyy)	PHONE NUMBER (optional)	SEX (check one) <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> NON-BINARY	WEIGHT LBS.	HEIGHT FT. IN.	EYE COLOR	HAIR COLOR	
STREET ADDRESS			CITY	STATE	ZIP CODE		
MAILING ADDRESS (if different from above - this will show on your license/permit/ID)			CITY	STATE	ZIP CODE		
IF YOUR NAME HAS CHANGED, PRINT YOUR FORMER NAME HERE		EMAIL ADDRESS (optional)	NAME OF CITY OR COUNTY OF RESIDENCE <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY OF _____				

- Do you wear glasses or contact lenses to operate a motor vehicle? .....  YES  NO
- Do you have a physical or mental condition/impairment which requires that you take medication? If yes, please list the condition(s) and the name of the medication(s). .....  YES  NO
- Have you ever had a seizure, blackout, or loss of consciousness? .....  YES  NO
- Do you have a physical condition/impairment which requires you to use special equipment to drive? .....  YES  NO
- Has your license or privilege to drive ever been suspended, revoked, or disqualified in this state or elsewhere? (**NOTE:** You do not need to disclose if your suspension, revocation or disqualification is due to a criminal conviction that has been expunged, or not subject to public disclosure.) .....  YES  NO

If you answered YES to any of the above provide an explanation here.

Do you currently hold or have you ever held a: (check all that apply)  Driver's License  ID Card  Learner's Permit  CDL

If so, provide the following:	LICENSE/ID CARD NUMBER	ISSUE DATE (mm/dd/yyyy)	EXPIRATION DATE (mm/dd/yyyy)	STATE/COUNTRY
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**FOR DMV USE ONLY — DO NOT WRITE BELOW THIS LINE**

REQUIRED TESTS	PASS	FAIL	CUSTOMER NUMBER	TRANSACTION TYPE	FEE
VISION			<input type="checkbox"/> ORIGINAL <input type="checkbox"/> REISSUE <input type="checkbox"/> DUPLICATE <input type="checkbox"/> RENEWAL		
DL ROAD SIGNS EXAM					
DL KNOWLEDGE EXAM					
DL SKILLS					
MC KNOWLEDGE			CSR SIGNATURE	CSR LOGON ID	
MC SKILLS M2					
MC SKILLS M3					

**OPTIONAL SPECIAL INDICATORS**

OPTIONAL - Select relevant indicators below to show on your license, permit or ID card.

**MEDICAL INDICATORS**

- Insulin-dependent diabetic\*       Speech impairment\*       Hearing impairment\*       Traumatic brain injury (DL 145 required for license or permit. A physician statement required for ID card.)
- Autism spectrum disorder (ASD)\*       Blind or vision impairment (ID card only)\*       Intellectual disability (IntD)\*

\* Must submit required physician statement

**VETERAN INDICATOR**

Add or keep the veteran indicator on my driver's license or identification card.  Remove the veteran indicator on my driver's license or identification card. You must complete a Virginia Veteran Military Service Certification (DL 11) form and provide an acceptable veteran service proof document to add the veteran indicator, unless you have already done so.

**BLOOD TYPE INDICATOR**

- Add or keep my blood type on my driver's license or ID card.  Remove my blood type from my driver's license or ID card.
- Select one:  A+     B+     AB+     O+  
 A-     B-     AB-     O-

The blood type designation displayed on a Virginia DMV issued credential shall not create any liability on the part of the Commonwealth of Virginia. Any person or entity that takes action based on the blood type designation displayed shall indemnify and hold harmless the Commonwealth of Virginia pursuant to Va Code §§ 46.2-342, 46.2-345, 46.2-345.2, and 46.2-345.3.

**PARENT OR LEGAL GUARDIAN CONSENT**

Check applicable box, review certification statement, print your name and sign where indicated.

- I authorize issuance of a learner's permit/driver's license.** I certify that the applicant is a resident of Virginia. I certify that the applicant is attending school regularly and is in good academic standing, but if not, I authorize issuance of a learner's permit/driver's license. I certify that this applicant will operate a motor vehicle for at least 45 hours (15 of which will occur after sunset) while holding a learner's permit.
- If the applicant attends public school, I authorize the principal or designee of the public school attended by the applicant to notify the juvenile and domestic relations district court (within whose jurisdiction the applicant resides) when the applicant has had 10 or more unexcused absences from school on consecutive school days.
- If a Special Indicator Request is checked on this application, I request on behalf of the applicant that it be shown on the learner's permit/driver's license. I certify that the statements made and the information submitted by me are true and correct.
- I authorize issuance of an ID card.** I certify that the applicant is a resident of Virginia. If a Special Indicator Request is checked on this application, I request on behalf of the applicant that it be shown on the identification card. I certify that the statements made and the information submitted by me are true and correct.

PARENT/LEGAL GUARDIAN NAME (print)	PARENT/LEGAL GUARDIAN SIGNATURE	DATE (mm/dd/yyyy)
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**APPLICANT UNDER AGE 18** Have you ever been found not innocent of any offense in a Juvenile and Domestic Relations Court in this or any other state?  YES  NO  
 If you answered YES, the court making the adjudication of "not innocent" or a court within the jurisdiction where the juvenile's parent/legal guardian resides must provide court consent below. **COURT CONSENT** In my opinion the applicant's request for a learner's permit/driver's license  should be granted.  should not be granted.

REMARKS:

JUDGE NAME (print)	JUDGE SIGNATURE	DATE (mm/dd/yyyy)
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**SELECTIVE SERVICE**

All males under the age of 26 are required to check one of the following. Failure to provide a response will result in denial of your application.

- I am already registered with Selective Service.
- I am a lawful non-immigrant on a current non-immigrant visa or a seasonal agricultural worker (H-2A Visa) and not required to register.
- I authorize DMV to forward to the Selective Service System personal information necessary to register me with Selective Service.

By signing this application, I consent to be registered with Selective Service, if required by federal law. If under age 18, an appropriate adult must complete and sign below: I authorize DMV to send information to Selective Service which will be used to register applicant when he is 18 years old.

SIGNATURE (check one and sign)	<input type="checkbox"/> PARENT / GUARDIAN <input type="checkbox"/> JUDGE, JUVENILE DOMESTIC RELATIONS COURT <input type="checkbox"/> EMANCIPATED MINOR
--------------------------------	---

**GOVERNMENT EMPLOYEES - (Fee waiver certification)**

I certify that I am employed by the:  Commonwealth of Virginia or  City of \_\_\_\_\_  County of \_\_\_\_\_  Town of \_\_\_\_\_ to operate a motorcycle solely in the course of this employment and, because of such employment, I am entitled to the waiver of the motorcycle class endorsement fee, provided I have paid for and hold a valid Virginia driver's license or have made application for such.

**NOTICE**

Va. Code §§46.2-323 and 46.2-342 require that you provide DMV with the information on this form (including your social security number). Your personally identifiable information is being collected for record keeping purposes and will be disseminated only in accordance with Va. Code §§46.2-208, 46.2-209, and the Driver's Privacy Protection Act, 18 USC §2721. Persons convicted of certain sexual offenses (as listed in Va. Code §9.1-902) must register or re-register with the Virginia Department of State Police as provided in Va. Code §§9.1-901, 9.1-903, and 9.1-904. If you provide a non-Virginia residence/home address or non-Virginia mailing address, your application for a driver's license or permit may be denied. Upon issuance of a driver's license, commercial driver's license or identification card in the Commonwealth of Virginia, any driver's license, commercial driver's license or identification card previously issued by another state must be surrendered and will be cancelled by the issuing state.

**CERTIFICATION**

I certify and affirm that I am a resident of Virginia, that all information presented in this application is true and correct, that any documents I have presented to DMV are genuine, and that my appearance, for purpose of my DMV photograph, is a true and accurate representation of how I generally appear in public. I make this certification and affirmation under penalty of perjury and understand that making a false statement on this application is a criminal violation. By signing this form, I authorize DMV to verify the information provided on this application, as required to determine eligibility.

APPLICANT NAME (print)	APPLICANT SIGNATURE	DATE (mm/dd/yyyy)
------------------------	---------------------	-------------------

Completion of this section is requested but not required to apply for a driver's license or ID Card. (Virginia Code §2.2-3806)

INFORMATION FOR THE DEPARTMENT OF ELECTIONS

Mail In / DMV Connect Only - Are you a citizen of the United States of America?

YES (INITIAL BOX) [ ]

NO (INITIAL BOX) [ ]

Mail In / DMV Connect Only - Do you want to register to vote or change your voter registration address?

YES (INITIAL BOX) [ ]

NO (INITIAL BOX) [ ]



Virginia Department of Motor Vehicles
Post Office Box 27412
Richmond, Virginia 23269-0001
www.dmv.virginia.gov

COMMERCIAL DRIVER'S LICENSE (CDL) APPLICATION

DL 2P (07/01/2024)

LOG # [ ]

Purpose: Use this form to apply for a commercial driver's license or commercial learner's permit.

Instructions: Submit completed application to any DMV Customer Center. Complete front and back of this application.

APPLICATION TYPE

REAL ID: ID requirements for domestic air travel and access to secure federal facilities change May 7, 2025. A REAL ID meets these requirements.

Would you like to apply for a REAL ID license? (Not applicable if applying for a Motorcycle Learner's Permit)

- Yes - I would like to use my license as ID to board a domestic flight or enter a secure federal facility or military base on or after May 7, 2025. View the documents you'll need at https://www.dmv.virginia.gov/licenses-ids/real-id or ask for a brochure.
No - I acknowledge my license will display "Federal Limits Apply" and I will need another form of ID to board a domestic flight or enter a secure federal facility or military base on or after May 7, 2025.

Commercial Driver's License (CDL) Commercial Learner's Permit (CLP) Motorcycle License (indicate class below)

Check ONE if applicable: Motorcycle Learner's Permit "M" class (2 and 3 wheels) "M2" class (2 wheels) "M3" class (3 wheels)

Replacement License (also check ONE): I am surrendering my current license/permit. I certify I cannot surrender my current license/permit because it is: LOST STOLEN DESTROYED

Add Endorsement(s)

- H - Hazardous Materials S - School Bus (16 or more passengers)
N - Tank T - Double/Triple Trailer
P - Passenger Carrying Vehicle (16 or more passengers) X - Tank and Hazardous Materials

Remove Endorsement(s)

- H - Hazardous Materials S - School Bus (16 or more passengers)
N - Tank T - Double/Triple Trailer
P - Passenger Carrying Vehicle (16 or more passengers) X - Tank and Hazardous Materials

APPLICANT INFORMATION

NOTE: YOUR ADDRESS BELOW MUST BE CURRENT. THE U.S. POSTAL SERVICE WILL NOT FORWARD YOUR LICENSE.

FULL LEGAL NAME (last, first, middle, suffix) SOCIAL SECURITY NUMBER (SSN) I HAVE NOT BEEN ISSUED A SSN.

BIRTHDATE (mm/dd/yyyy) PHONE NUMBER (optional) SEX (check one) MALE FEMALE NON-BINARY WEIGHT LBS. HEIGHT FT. IN. EYE COLOR HAIR COLOR

STREET ADDRESS APT NO. CITY STATE ZIP CODE

IF YOUR NAME HAS CHANGED, PRINT YOUR FORMER NAME HERE NAME OF CITY OR COUNTY OF RESIDENCE CITY COUNTY OF

MAILING ADDRESS (if different from above - this address will show on your license/permit) APT NO. CITY STATE ZIP CODE

EMAIL ADDRESS (optional)

- 1. Do you wear glasses or contact lenses to operate a motor vehicle? YES NO
2. Do you have a physical or mental condition/impairment which requires that you take medication? If yes, please list the condition(s) and the name of the medication(s). YES NO
3. Have you ever had a seizure, blackout, or loss of consciousness? YES NO
4. Do you have a physical condition/impairment which requires you to use special equipment to drive? YES NO
5. Has your license or privilege to drive ever been suspended, revoked, or disqualified in this state or elsewhere? (NOTE: You do not need to disclose if your suspension, revocation or disqualification is due to a criminal conviction that has been expunged, or not subject to public disclosure.) YES NO

If you answered YES to any of the above provide an explanation here.

FOR DMV USE ONLY - DO NOT WRITE BELOW THIS LINE

Table with columns for REQUIRED TESTS, PASS, FAIL. Rows include VISION, SCHOOL BUS, PASSENGER, TANKER, HAZMAT, DOUBLE/TRIPLE, MOTORCYCLE KNOWLEDGE, MOTORCYCLE SKILLS M2, MOTORCYCLE SKILLS M3.

CUSTOMER NUMBER TRANSACTION TYPE ORIGINAL REISSUE DUPLICATE RENEWAL FEE

CSR SIGNATURE CSR LOGON ID

**VEHICLE OPERATION AND ADDITIONAL APPLICANT INFORMATION**

I want to be licensed to operate the type of vehicle(s) checked below:  
 A - Combination vehicle with GVWR or GCWR of 26,001 lbs. or more  
 B - Single vehicle with GVWR of 26,001 lbs. or more, or towing a vehicle less than 10,000 lbs. GVWR.  
 C - Any vehicle that does not fit the definition of a Class A or Class B vehicle and is either used to transport hazardous materials or designed to carry 16 or more passengers, including the driver.

**BRAKES**  Full Air Brakes  No Air Brakes (L restriction)  Air Over Hydraulic Brakes (Z restriction)

**TRANSMISSION**  Automatic Only (E restriction)  Manual (includes automatic)

Have you been issued any license or ID Card in Virginia or another jurisdiction within the past 10 years?  Yes  No  
 If yes, identify any jurisdiction(s) in which you held a license or ID Card. Use the Supplemental Driver's Licensing History Sheet, form DL 2PA if additional space is needed.

List all driver licenses issued to you during the past 10 years.

	JURISDICTION	LICENSE NUMBER	LICENSE ISSUE DATE	LICENSE EXPIRATION DATE
1.				
2.				
3.				
4.				

**PLACE OF DOMICILE** - Your place of domicile may or may not be the same as your place of residence. Your place of residence is where you currently live and your place of domicile is where your true, fixed and permanent home and principal residence is and to which you intend to return whenever you are absent. My place of domicile is:

Virginia  Another U.S. state/territory or Canada/Mexico (not eligible - must apply in place of domicile)  
 Outside of Virginia/Active Duty U.S. Military (Active Duty Common Access Card (CAC) Required)  A country other than the U.S. (unexpired EAD or foreign passport and I-94 required for a non-domiciled CLP/CDL)

**INTERSTATE DRIVER**

(Check the box for the qualification category that applies)  
 NON-EXCEPTED - I meet the qualification requirements under 49 CFR Part 391 of the Federal Motor Carrier Safety Regulations. (Medical examiner's certificate required)  
 EXCEPTED - I am exempt from the qualification requirements under 49 CFR Part 391 of the Federal Motor Carrier Safety Regulations. (No medical examiner's certificate required)

**INTRASTATE DRIVER (K restriction)**

NON-EXCEPTED - I meet the qualification requirements under Title 19 § 30-20-80 of the VA Administrative Code. (Medical examiner's certificate required)  
 EXCEPTED - I am exempt from the qualification requirements under Title 19 § 30-20-80 of the VA Administrative Code. (No medical examiner's certificate or state-approved letter required)

**GOVERNMENT EMPLOYEES - (Fee waiver certification)**

I certify that I am employed by the:  Commonwealth of Virginia or  City of  County of  Town of \_\_\_\_\_  
 to operate a motorcycle or commercial motor vehicle solely in the course of this employment and, because of such employment, I am entitled to the waiver of the motorcycle class and/or commercial motor vehicle endorsement fee, provided I have paid for and hold a valid Virginia driver's license or have made application for such.

**SELECTIVE SERVICE**

All males under the age of 26 are required to check one of the following. Failure to provide a response will result in denial of your application.  
 I am already registered with Selective Service.  
 I am a lawful non-immigrant on a current non-immigrant visa or a seasonal agricultural worker (H-2A Visa) and not required to register.  
 I authorize DMV to forward to the Selective Service System personal information necessary to register me with Selective Service.  
 By signing this application, I consent to be registered with Selective Service, if required by federal law.

**OPTIONAL SPECIAL INDICATORS**

**VETERAN INDICATOR**

Add or keep the veteran indicator on my commercial driver's license/permit.  Remove the veteran indicator on my commercial driver's license/permit.  
 You must complete a Virginia Veteran Military Service Certification (DL 11) form and provide an acceptable veteran service proof document to add the veteran indicator, unless you have already done so.

**BLOOD TYPE INDICATOR**

Add or keep my blood type on my commercial driver's license/permit.  Remove my blood type from my commercial driver's license/permit.  
 Select one:  A+  B+  AB+  O+  
 A-  B-  AB-  O-

The blood type designation displayed on a Virginia DMV issued credential shall not create any liability on the part of the Commonwealth of Virginia. Any person or entity that takes action based on the blood type designation displayed shall indemnify and hold harmless the Commonwealth of Virginia pursuant to Va Code §§ 46.2-342, 46.2-345, 46.2-345.2, and 46.2-345.3.

**NOTICE**

Va. Code §§46.2-323 and 46.2-342 require that you provide DMV with the information on this form (including your social security number). Your personally identifiable information is being collected for record keeping purposes and will be disseminated only in accordance with Va. Code §§46.2-208, 46.2-209, and the Driver's Privacy Protection Act, 18 USC §2721. Persons convicted of certain sexual offenses (as listed in Va. Code §9.1-902) must register or re-register with the Virginia Department of State Police as provided in Va. Code §§9.1-901, 9.1-903, and 9.1-904. If you provide a non-Virginia residence/home address or non-Virginia mailing address, your application for a driver's license or permit may be denied. Upon issuance of a driver's license, commercial driver's license or ID card in the Commonwealth of Virginia, any driver's license, commercial driver's license or ID card previously issued by another state must be surrendered and will be cancelled by the issuing state.

**CERTIFICATION**

I certify and affirm that I am a resident of Virginia, that all information presented in this application is true and correct, that any documents I have presented to DMV are genuine, and that my appearance, for purpose of my DMV photograph, is a true and accurate representation of how I generally appear in public. I make this certification and affirmation under penalty of perjury and understand that knowingly making a false statement on this application is a criminal violation. By signing this form, I authorize DMV to verify the information provided on this application, as required to determine eligibility.

APPLICANT NAME (print)	APPLICANT SIGNATURE <b>App. 105</b>	DATE (mm/dd/yyyy)
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Completion of this section is requested but not required. (Virginia Code §2.2-3806)

**INFORMATION FOR THE DEPARTMENT OF ELECTIONS - Mail In / DMV Connect / DMV Select Only**

Are you a citizen of the United States of America?

**YES**  
(INITIAL BOX)

**NO**  
(INITIAL BOX)

Do you want to register to vote or change your voter registration address?

**YES**  
(INITIAL BOX)

**NO**  
(INITIAL BOX)



ISD 01 (07/01/2020)

**ADDRESS CHANGE REQUEST**

**Purpose:** Use this form to report a change of address to the Virginia Department of Motor Vehicles.

**Instructions:** Complete this form and submit it to DMV. The Virginia Department of Motor Vehicles is able to capture and store three different addresses (residence, mailing, and vehicle registration). It is very important to DMV that we capture your correct address(es). You may also update your records immediately by changing your address online at [www.dmvNOW.com](http://www.dmvNOW.com).

**CUSTOMER INFORMATION**

CUSTOMER NUMBER (as it appears on your driver's license or identification card)	CUSTOMER BIRTH DATE (mm/dd/yyyy)
FULL LEGAL NAME (last, first, middle, suffix)	
REASON FOR ADDRESS CHANGE (check one) <input type="checkbox"/> MOVED <input type="checkbox"/> CORRECTION (typographical error, new 911 address, etc.)	ADDRESS FIELD EFFECTIVE DATE (mm/dd/yyyy)

**NEW RESIDENCE/HOME ADDRESS**

- Enter the address where you actually live. Do not enter a post office box number. Virginia law requires you to provide this address to DMV.
- If you change either your residence/home address or mailing address to a non-Virginia address, your driver's license and/or photo identification (ID) card may be canceled.

STREET ADDRESS (no P.O. Box)	CITY	STATE	ZIP CODE
RESIDENCE LOCATION (city or county in which you live)		COUNTRY	

**NEW MAILING ADDRESS**

- The address shown on your driver's license may be either a post office box, business or residence address in Virginia.
- If you choose to have a mailing address that is different from your residence address, DMV will send all of your documents to the mailing address.
- If you change your residence/home address or mailing address to a non-Virginia address, your driver's license and/or photo identification (ID) card may be canceled.

MAILING ADDRESS	CITY	STATE	ZIP CODE
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**VEHICLE REGISTRATION MAILING ADDRESS**

- Use this section if you own a vehicle that is not located at your residence address and you want DMV to mail the vehicle registration renewal notice to an address different from those recorded above or if you want to notify DMV of a vehicle that is garaged somewhere other than where you live.
- If you need to change the address of more than two vehicles, use the additional space on the back of this form

<b>VEHICLE 1</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS	CITY	STATE	ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 2</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS	CITY	STATE	ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

To record additional vehicles, complete the reverse side of this form

**CERTIFICATION**

I certify and affirm that all information presented in this form is true and correct, that any documents I have presented to DMV are genuine, and that the information included in all supporting documentation is true and accurate. I make this certification and affirmation under penalty of perjury and I understand that knowingly making a false statement or representation on this form is a criminal violation.

SIGNATURE	DATE (mm/dd/yyyy)	DAYTIME TELEPHONE NUMBER (    )
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**ADDITIONAL VEHICLE REGISTRATION MAILING ADDRESS**

<b>VEHICLE 3</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 4</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 5</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 6</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 7</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 8</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 9</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 10</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	

<b>VEHICLE 11</b>	VEHICLE MAKE	TITLE NUMBER	LAST FOUR DIGITS OF VEHICLE IDENTIFICATION NUMBER (VIN)	
	MAILING ADDRESS		CITY	STATE ZIP CODE
	COUNTRY	GARAGE JURISDICTION (city, county, or town where your vehicle is located)	DATE VEHICLE FIRST LOCATED HERE (mm/dd/yyyy)	



## VOTER REGISTRATION QUESTIONNAIRE

**Purpose:** Use this form if you were unable to complete the voter registration questions electronically on the credit card terminal to determine if a paper voter registration application is needed. Completion of this form is requested but not required to apply for a driver's license or ID card. (Virginia Code §2.2-3806)

**Instructions:** Answer the questions below and return this completed form to the customer service representative.

CUSTOMER INFORMATION	
CUSTOMER NAME (print)	CUSTOMER NUMBER
Are you a citizen of the United States of America? <b>YES</b> (INITIAL BOX) <input type="checkbox"/> <b>NO</b> (INITIAL BOX) <input type="checkbox"/>	The information on your application will be used to update your voter registration or register you to vote unless you initial NO to decline. <b>NO</b> (INITIAL BOX) <input type="checkbox"/>

Completion of this section is requested but not required to apply for a driver privilege card. (Virginia Code §2.2-3806)

Information for the Virginia Transplant Council  Yes, I would like to become an organ, eye and tissue donor.



Virginia Department of Motor Vehicles  
Post Office Box 27412  
Richmond, Virginia 23269-0001  
www.dmv.virginia.gov

DL 10 (08/01/2024)

**DRIVER AND IDENTIFICATION PRIVILEGE CARD APPLICATION**

LOG #

**Purpose:** Non-US citizens may use this form to apply for a Driver Privilege Card or Identification Privilege Card.

**Instructions:** Complete front and back of this application. Submit completed application and all required documents to any DMV Customer Service Center (CSC).

**APPLICATION TYPE**

- |  |   |
|--|---|
| <input type="checkbox"/> Driver Privilege Card *                             | <input type="checkbox"/> Driver Privilege Card with Motorcycle Class (complete Motorcycle Classification section below) |
| <input type="checkbox"/> Learner's Permit <u>and</u> Driver Privilege Card * | <input type="checkbox"/> Motorcycle Only Driver Privilege Card (complete Motorcycle Classification section below)       |
| <input type="checkbox"/> Identification Privilege Card                       | <input type="checkbox"/> Motorcycle Learner's Permit (classification not applicable)                                    |

**Motorcycle Classification**

- |   |   |
|---|---|
| <input type="checkbox"/> Maintaining current Virginia Motorcycle Classification | <input type="checkbox"/> Add, Upgrade or Transfer Motorcycle Classification or obtain Motorcycle Only Privilege Card. Additional testing may be required. Check applicable box below: |
|   | <input type="checkbox"/> M 2 (2 wheels) <input type="checkbox"/> M 3 (3 wheels) <input type="checkbox"/> M (both 2 and 3 wheels)  |

**Road Skills Test Acknowledgement (Required for Driver Privilege Card and Permit Applicants):**

I acknowledge and understand that if I am required to complete a road skills test, I must successfully complete it at a DMV customer service center and that completion of a driver education course through a public or private school or at a driver training school will **not** waive this requirement.

Applicant's Initials:

**Replacement Driver Privilege or Identification Card** (check one of the following):

I am surrendering my current Driver/Identification Privilege Card.

I certify I cannot surrender my current Driver/Identification Privilege Card because it is:  Lost     Stolen     Destroyed

**APPLICANT INFORMATION**

**Note:** Your address must be current. The U.S. Postal Service will NOT FORWARD your Driver Privilege Card or Identification Privilege Card.

FULL LEGAL NAME (last, first, middle, suffix)

SOCIAL SECURITY NUMBER (SSN) OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN)

BIRTHDATE (mm/dd/yyyy)

PHONE NUMBER (optional)

SEX (check one)

MALE     FEMALE     NON-BINARY

WEIGHT

LBS.

HEIGHT

FT.

IN.

EYE COLOR

HAIR COLOR

STREET ADDRESS

CITY

STATE

ZIP CODE

IF YOUR NAME HAS CHANGED, PRINT YOUR FORMER NAME HERE

NAME OF CITY OR COUNTY OF RESIDENCE

CITY     COUNTY OF \_\_\_\_\_

MAILING ADDRESS (if different from above - this will show on your card/permit/ID)

CITY

STATE

ZIP CODE

EMAIL ADDRESS

- |   |  |
|---|--|
| 1. Do you wear glasses or contact lenses to operate a motor vehicle? .....  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 2. Do you have a physical or mental condition/impairment which requires that you take medication? If yes, please list the condition(s) and the name of the medication(s) .....  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3. Have you ever had a seizure, blackout, or loss of consciousness? .....   | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 4. Do you have a physical condition/impairment which requires you to use special equipment to drive? .....  | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 5. Has your license or privilege to drive ever been suspended, revoked, or disqualified in this state or elsewhere? ( <b>NOTE:</b> You do not need to disclose if your suspension, revocation or disqualification is due to a criminal conviction that has been expunged, or not subject to Public disclosure.) ..... | <input type="checkbox"/> YES <input type="checkbox"/> NO |

If you answered YES to any of the above provide an explanation here.

Do you currently hold or have you ever held a:     Driver's License/Privilege Card     ID Card     Learner's Permit     CDL

If so, provide the following:

LICENSE/ID CARD NUMBER

ISSUE DATE (mm/dd/yyyy)

EXPIRATION DATE (mm/dd/yyyy)

STATE/COUNTRY

**FOR DMV USE ONLY — DO NOT WRITE BELOW THIS LINE**

REQUIRED TESTS	PASS	FAIL	CUSTOMER NUMBER	TRANSACTION TYPE	FEE
VISION			<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> </div>	<input type="checkbox"/> ORIGINAL <input type="checkbox"/> REISSUE <input type="checkbox"/> DUPLICATE <input type="checkbox"/> RENEWAL	
DL ROAD SIGNS EXAM					
DL KNOWLEDGE EXAM					
DL SKILLS					
MC KNOWLEDGE					
MC SKILLS M2			CSR SIGNATURE	CSR LOGON ID	
MC SKILLS M3					



**OPTIONAL SPECIAL INDICATORS**

OPTIONAL - Select relevant indicators below to show on your license, permit or ID card.

**MEDICAL INDICATORS**

- Insulin-dependent diabetic\*       Speech impairment\*       Hearing impairment\*       Traumatic brain injury (DL 145 required for license or permit. A physician statement required for ID card.)
- Autism spectrum disorder (ASD)\*       Blind or vision impairment (ID card only)\*       Intellectual disability (IntD)\*

\* Must submit required physician statement

**VETERAN INDICATOR**

Add or keep the veteran indicator on my driver's license or identification card.       Add or keep the veteran indicator on my driver's license or identification card.  
 You must complete a Virginia Veteran Military Service Certification (DL 11) form and provide an acceptable veteran service proof document to add the veteran indicator, unless you have already done so.

**BLOOD TYPE INDICATOR**

- Add or keep my blood type on my driver's license or ID card.       Remove my blood type from my driver's license or ID card.  
 Select one:       A+       B+       AB+       O+  
                           A-       B-       AB-       O-

The blood type designation displayed on a Virginia DMV issued credential shall not create any liability on the part of the Commonwealth of Virginia. Any person or entity that takes action based on the blood type designation displayed shall indemnify and hold harmless the Commonwealth of Virginia pursuant to Va Code §§ 46.2-342, 46.2-345, 46.2-345.2, and 46.2-345.3.

**PARENT OR LEGAL GUARDIAN LICENSE CONSENT**

Check applicable box, review certification statement, print your name and sign where indicated.

**I authorize issuance of a learner's permit/driver privilege card.** I certify that the applicant is a resident of Virginia. I certify that the applicant is attending school regularly and is in good academic standing, but if not, I authorize issuance of a learner's permit/driver privilege card. I certify that this applicant will operate a motor vehicle for at least 45 hours (15 of which will occur after sunset) while holding a learner's permit.  
 If the applicant attends public school, I authorize the principal or designee of the public school attended by the applicant to notify the juvenile and domestic relations district court (within whose jurisdiction the applicant resides) when the applicant has had 10 or more unexcused absences from school on consecutive school days.  
 If a Special Indicator Request is checked on this application, I request on behalf of the applicant that it be shown on the learner's permit/driver privilege card. I certify that the statements made and the information submitted by me are true and correct.

**I authorize issuance of an identification privilege card.** I certify that the applicant is a resident of Virginia. If a Special Indicator Request is checked on this application, I request on behalf of the applicant that it be shown on the identification card.  
 I certify that the statements made and the information submitted by me are true and correct.

PARENT/GUARDIAN NAME (print)	PARENT/GUARDIAN SIGNATURE	DATE (mm/dd/yyyy)
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**APPLICANT UNDER AGE 18** Have you ever been found not innocent of any offense in a Juvenile and Domestic Relations Court in this or any other state?  YES  NO  
 If you answered YES, the court making the adjudication of "not innocent" or a court within the jurisdiction where the juvenile's parent/guardian resides must provide court consent below.

**COURT CONSENT** In my opinion the applicant's request for a learner's permit/driver privilege card  should be granted.  should not be granted.

JUDGE NAME (print)	JUDGE SIGNATURE	DATE (mm/dd/yyyy)
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REMARKS:

**SELECTIVE SERVICE**

All males under the age of 26 are required to check one of the following. Failure to provide a response will result in denial of your application.

- I am already registered with Selective Service.  
 I am a lawful non-immigrant on a current non-immigrant visa or a seasonal agricultural worker (H-2A Visa) and not required to register.  
 I authorize DMV to forward to the Selective Service System personal information necessary to register me with Selective Service.

By signing this application, I consent to be registered with Selective Service, if required by federal law. If under age 18, an appropriate adult must complete and sign below: I authorize DMV to send information to Selective Service which will be used to register applicant when he is 18 years old.

SIGNATURE (check one and sign)       PARENT / GUARDIAN       JUDGE, JUVENILE DOMESTIC RELATIONS COURT       EMANCIPATED MINOR

**NOTICE**

Va. Code §§46.2-323 and 46.2-342 require that you provide DMV with the information on this form (including your social security number). Your personally identifiable information is being collected for record keeping purposes and will be disseminated only in accordance with Va. Code §§46.2-208, 46.2-209, 46.2-328.3 and the Driver's Privacy Protection Act, 18 USC §2721. Persons convicted of certain sexual offenses (as listed in Va. Code §9.1-902) must register or re-register with the Virginia Department of State Police as provided in Va. Code §§9.1-901, 9.1-903, and 9.1-904. If you provide a non-Virginia residence/home address or non Virginia mailing address, your application for a driver's license or permit may be denied. Upon issuance of a driver's license, driver privilege card, commercial driver's license or identification card in the Commonwealth of Virginia, any driver's license, driver privilege card, commercial driver's license or identification card previously issued by another state must be surrendered and will be canceled by the issuing state.

**CERTIFICATION**

I certify and affirm that I am not a citizen of the United States and that I am a resident of Virginia, that all information presented in this application is true and correct, that any documents I have presented to DMV are genuine, and that my appearance, for purpose of my DMV photograph, is a true and accurate representation of how I generally appear in public. I make this certification and affirmation under penalty of perjury and understand that making a false statement on this application is a criminal violation. By signing this form, I authorize DMV to verify the information provided on this application, as required to determine eligibility.

APPLICANT NAME (print)	APPLICANT SIGNATURE	DATE (mm/dd/yyyy)
------------------------	---------------------	-------------------

If you are an eligible Virginia resident, the following process will register you to vote or update your current voter registration.

Select "Continue" to complete this process.

Select "No" to stop and return to the DMV process.

Your answer will not affect your ability to obtain a driver's license or ID card.

Continue

No

Back

If user selects "Continue", they are shown screen 2.  
If user selects "No", the EMV process ends.  
If user selects "Back", they are taken to the DMV screen immediately before the EMV process begins.

Your answer will be provided only to the Department of Elections and does not affect your ability to obtain a driver's license or identification card.

Are you a citizen of the United States?

Yes  No  No Response  Back

- If user selects "Yes, they are shown screen 5.
- If user selects "No", they are shown screen 3.
- If user selects "No Response", they are shown screen 4.
- If user selects "Back", they are shown screen 1.

Is this correct?

Yes

No

Back

If user selects "Yes", the EMV process ends.  
If user selects "No" or "Back", they are shown screen 2.

Is this correct?

Yes

No

Back

If user selects "Yes", the EMV process ends.  
If user selects "No" or "Back", they are shown screen 2.

**WARNING:** INTENTIONALLY VOTING MORE THAN ONCE IN AN ELECTION OR MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500.

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Do you accept the above warning statement?

Yes

No

Back

If user selects “Yes”, they are shown screen 6.  
If user selects “No”, the EMV process ends.  
If user selects “Back”, they are shown screen 2.

**Privacy Act Notice:** Article II, Section 2 of the Constitution of Virginia (1971) requires that a person registering to vote provide his or her social security number, if any. Therefore, if you do not provide your social security number, your application for voter registration will be denied. Section 7 of the Federal Privacy Act (Public Law Number 93-579) allows the Commonwealth to enforce this requirement, but also requires that you be advised that state and local voting officials will use the social security number as a unique identifier to ensure that no person is registered in more than one place. This registration card will only be open to inspection by the public if the social security number is removed. Your social security number will appear on reports produced only for official use by voter registration and election officials, and for jury selection purposes by courts, and all lawful governmental purposes.

Do you accept the above Privacy Act Notice?

Yes  No  Back

If user selects “Yes”, they are shown screen 7.  
If user selects “No”, the EMV process ends.  
If user selects “Back”, they are shown screen 6.

This is the DMV address that will be sent to the Department of Elections to use for your voter registration. You must provide a residence address in Virginia to vote.

Is the DMV address displayed below correct?

**DMV Address:**

Street: 299 STANLEY AVE

City: SHENANDOAH

State: VA

Zip Code: 22849-4211

Residence Locality: PAGE

Yes

No

Back

If user selects “Yes”, they are shown screen 8.

If user selects “No”, the EMV process ends.

If user selects “Back”, they are shown screen 6.



Please provide your phone number and email address. (optional)

Phone Number:

Email Address:

The telephone number and email address is for Department of Elections use only.

Continue

Back

If user selects “Continue”, they are shown screen 9.  
If user selects “Back”, they are shown screen 7.

Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote?

Yes

No

Back

If user selects “Yes”, they are shown screen 10.  
If user selects “No”, they are shown screen 11.  
If user selects “Back”, they are shown screen 8.

Have your voting rights been restored?

Yes  No  Back

If user selects “Yes” or “No”, they are shown screen 11.  
If user selects “Back”, they are shown screen 9.

Are you an active duty uniformed services member, qualified spouse or dependent; or do you reside overseas?

Yes  No  Back

If user selects “Yes” or “No”, they are shown screen 12.  
If user selects “Back”, they are shown screen 9 or 10, depending on how they responded to 9.

A protected voter must be or share a household with a judge, law enforcement official; selection official or their employee; Commonwealth elector; person with a protective order; person in fear for personal safety from being threatened or stalked by another person; or approved to be a foster parent. If you are a protected voter, you must have provided an alternative post office box mailing address in Virginia.

Do you qualify as a protected voter?

Yes  No  Back

If user selects "Yes", they are shown screen 12.  
If user selects "No", they are shown screen 15.  
If user selects "Back", they are shown screen 11.

Select one of the reason codes below

1. **LEO:** active or retired law enforcement officer, judge, magistrate, U.S. or Virginia Attorney General attorney;
2. **CPO:** have a court issued protective order for your benefit;
3. **ACP:** registered with the Virginia Attorney General's Address Confidentiality Program;
4. **TSC:** in fear for personal safety from being stalked or threatened by another person;
5. **AFP:** approved to be a foster parent;
6. **PEO:** current or former state or local election official, their employee, or a Commonwealth elector for President and Vice President;

Continue

Back

If user selects "Continue", they are shown screen 14.  
If user selects "Back", they are shown screen 12.

Enter your Virginia P.O. Box address. (required)

P.O. Box:

City:

State: **Virginia**

Zip Code:

Continue

Back

If user selects “Continue”, they are shown screen 15.  
If user selects “Back”, they are shown screen 13.

Are you currently registered to vote in another state or territory?

Yes

No

Back

If user selects “Yes”, they are shown screen 16.  
If user selects “No”, they are shown screen 17.  
If user selects “Back”, they are shown screen 12 or 14, depending on how they answered 12.



Select the state or territory where you are currently registered to vote

Continue

Back

If user selects "Continue", they are shown screen 17.  
If user selects "Back", they are shown screen 15.

**Acknowledgement:**

I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided for voter registration is true. I authorize the cancellation of my current registration and I have read the Privacy Act Notice.

Accept

Decline

Back

If the user selects “Accept” or “Decline”, the EMV process ends and they are returned to the DMV transaction.  
If the user selects “Back”, they are shown screen 15 or 16, depending on how they answered 15.

## Screen 1

Name:  
Date of Birth:  
Last 4 of SSN:

Is this information correct?

Yes

No

## Screen 2

Residence address (where you live):

Mailing address:

Is this information correct?

Yes No

Registered voters who mark “Yes” move to Screen 3. Non-registered voters who mark “Yes” move to screen 4. “No” returns control to CSR to correct information.

## Screen 3

This is your current voter registration information from the Department of Elections.

Name:

Residence/Street Address(where you live):

Military Status:

If the above information is incorrect, you will be able to change it on the next screen.

**Back**

**Next**

## Screen 4

If you are an eligible Virginia resident, the following process will register you to vote or update your current voter registration.

Select "Continue" to complete this process.

Select "No" to stop and return to the DMV process.

Your answer to this question does not affect your ability to obtain a driver's license or identification card.

**Back**

**Continue**

**No**

## Screen 4a

You have chosen not to register to vote or make any changes to your current registration today.

Press “Confirm” if correct, or “Back” if incorrect.

Confirm

Back

## Screen 5

**Back**

Are you a citizen of the United States?

Your answer will be provided only to the Department of Elections and does not affect your ability to obtain a driver's license or identification card.

**Yes**

**No**

**No Response**



## Screen 5a

You must be a citizen of the United States to register to vote. You have indicated that you are not a US citizen.

Is this correct?

Yes

No

## Screen 5b

You have chosen not to respond to the US citizenship question.

As a result, no voter registration application or voter information update will be submitted to the Department of Elections.

Is this correct?

Yes

No

## Screen 6

WARNING: INTENTIONALLY VOTING MORE THAN ONCE IN AN ELECTION OR MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500.

Continue

End

## Screen 7

Privacy Act Notice: Article II, Section 2 of the Constitution of Virginia (1971) requires that a person registering to vote provide his or her social security number, if any. Therefore, if you do not provide your social security number, your application for voter registration will be denied. Section 7 of the Federal Privacy Act (Public Law-Number 93-579) allows the Commonwealth to enforce this requirement, but also requires that you be advised that state and local voting officials will use the social security number as a unique identifier to ensure that no voter is registered in more than one place. This registration card will only be open to inspection by the public if the social security number is removed. Your social security number will appear on reports produced only for official use by voter registration and election officials, and for jury selection purposes by courts and all lawful governmental purposes.

Continue

End

## Screen 8

Do you wish to provide your phone number to the Department of Elections? Providing a phone number is optional but may be helpful if needed to clarify information on your application.

Yes

No

## Screen 8a

Enter 10-digit Telephone number:

( ) - -

Keypad here for entering telephone number

## Screen 9

**Back**

Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote?

**Yes**

**No**

## Screen 9a

**Back**

Have your voting rights been restored?

**Yes**

**No**

This screen only shows if customer said they were a convicted felon. “Yes” or “No” moves to Screen 10. “Back” returns to Screen 5.



## Screen 10

**Back**

Are you an active duty uniformed services member, a qualifying spouse or dependent; or do you reside overseas?

**Yes**

**No**

## Screen 11

A protected voter must be or share a household with a judge; magistrate; law enforcement official; **election official or their employee; Commonwealth elector;** person with a protective order; person in fear for personal safety from being threatened or stalked by another person; or approved to be a foster parent.

Press Continue to indicate your protected status. Press Skip if you are not a protected voter.

**Back**

**Continue**

**Skip**

## Screen 11a

**Back**

Are you or a household member an active or retired law enforcement officer, judge, magistrate, U.S. or Virginia Attorney General attorney?

**Yes**

**No**

## Screen 11b

**Back**

Have you or a household member had a court issued protective order for your benefit?

**Yes**

**No**

## Screen 11c

**Back**

Are you or a household member registered with the Virginia Attorney General's Address Confidentiality Program?

**Yes**

**No**

## Screen 11d

**Back**

Are you or a household member in fear for personal safety from being threatened or stalked by another person?

**Yes**

**No**

## Screen 11e

**Back**

Are you or a household member been approved to be a foster parent?

**Yes**

**No**

**Screen 11f-  
New**

**Back**

Are you or a household member a current or former state or local election official, their employee, or a Commonwealth elector for President and Vice President.

**Yes**

**No**



## Screen 12

You must select a protected status to be a protected voter.

OK

## Screen 13

**Back**

Are you currently registered to vote in another state or territory?

**Yes**

**No**

## Screen 14

2-letter State abbreviation where you are registered to vote:



Keypad down here for entering two letters....

Move on to Screen 15

## Screen 15

I swear/affirm under penalty for making willfully false material statements or entries, that the information provided for voter registration is true. I authorize the cancellation of my current registration and I have read the Privacy Act Notice.

**Back**

**Affirm**

**Decline**

## Screen 16

You have chosen not to register to vote or make any changes to your current registration today.

Press "Confirm" if correct or "Back" if incorrect?

**Confirm**

**Back**

## Screen 17

DMV has sent your voter registration application to the Department of Elections.

Your local registrar will notify you when your application is processed. Be sure to read the Voter Registration Acknowledgement form provided at the end of your visit to DMV.

**OK**

## Screen 17a

DMV has sent your voter registration application to the Department of Elections.

Your local registrar will process any changes to your voter information. Be sure to read the Voter Registration Acknowledgement form provided at the end of your visit to DMV.

**OK**



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

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## Voter Registration List Maintenance

Department of Motor Vehicles: Full SBE  
& Non-Citizen Files

# Standard Operating Procedure

Version: V 0.1  
Author: E-B Davis  
Rev: Revision Date 2024-08-08



*Document Control*

## Document Information

Type	Description
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## Revision History

Version	Date	Author	Description
0.1	2013-11-08	Julie Gaulding	Initial draft
0.2	2015-09-02	David Allen	Replaced Quest with ELECT Ops
0.3	2019-10-03	David Allen	Added new record type "P"   Removed frequency diagram
0.4	2019-03-18	David Allen	Updated Non-Citizen process
0.5	2019-11-12	Michael Gilbert	
0.6	2020-04-22	E-B Davis	Update & Validate – Initial Draft
0.7	2023-08-09	Shantha Jeyasankar	Updated
0.8	2024-08-08	Shantha Jeyasankar	DMV Transaction File new file format

## *Acronym List*

This table provides a comprehensive list of acronyms used in this document.

<b>Acronym</b>	<b>Description</b>
BSA	Business Systems Analyst
DBA	Database Business Administrator
DMV	Department of Motor Vehicles
DOB	Date of Birth
ELECT	Department of Elections
ERIC	Electronic Registration and Information Center
ETA	Estimated Time of Arrival
GR	General Registrar
ISO	Information Security Officer
IT	Information Technology
LMSOP	List Maintenance Standard Operating Procedure
MOU	Memorandum of Understanding
NVRA	National Voter Registration Act
PPBL	Post Production Bug List
SBE-IT	Email group for ELECT Information Services team
sFTP	Secure File Transfer Protocol
SQL	Structured Query Language
SSIS	SQL Server Integration Services
SSN	Social Security Number
TEMP	Temporary
US	United States
VERIS	Virginia Election and Registration Information System
VITA	Virginia Information Technology Agency

## *Federal and State Code Citation*

The following federal and state code dictates how the Virginia Department of Elections (ELECT) conducts its list maintenance activity:

- [42 USC §1973gg](#).
- VA CODE [§24.2-404.4](#).
- VA CODE [§24.2-410.1](#).
- VA CODE [§24.2-427 \(B1\)](#).

## *Other References*

The following files and information served as sources for this List Maintenance Standard Operating Procedure (LMSOP).

- VSO206 DMV Non-Citizen
- DMV Non Citizen Procedures Ver3\_0.\_FNL
- VS0064, Amendment 24
- Business Use –Case Specification: 1.1.36 Process DMV Out of State Notices, Version 1.1
- IF-1.1 Technical Interface Specification – DMV – Process DL Surrender File, Version 1.3
- IF-1.2 Technical Interface Specification - DMV – Process DL Surrender File, Version 1.4

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## 1 Description

The National Voter Registration Act of 1993 (NVRA), also known as The Motor Voter Act, requires state governments to provide the opportunity to register to vote when a person applies for or renews their driver's license, changes the address on their driver's license, or applies for social services. Additionally, Virginia Election Law §24.2 – 410.1 requires the Virginia Department of Motor Vehicles (DMV) to include with the voter registration information a statement asking the applicant to declare if he or she is a United States (US) citizen. In accordance with these federal and state laws, the Department of Elections (ELECT) uses the data provided by DMV to perform list maintenance activities.

ELECT receives two data files from DMV. The files are the:

- **Monthly Extraction for SBE (DB195)** that includes data for the previous month all address change records, driver's license surrender records, and records for anyone registering to vote through DMV and indicating to DMV he or she is not a US Citizens.
- **Full SBE Data Extract for (195)** that includes all DMV customer records less any DMV customers under the age of 17.

### 1.1 Monthly Extract

Once DMV extracts the monthly data, DMV uploads the dataset to the DMV secure file transfer protocol (sFTP) server and notifies both ELECT and the Virginia Election and Registration Information System (VERIS) vendor that the data is available. The Elect DBA compares the file to the static voter file and loads matching records into each locality's Non-Citizen hopper.

 The following information was requested from DMV on April 10, 2019

**Question from Elect:** Does DMV perform any validation if the customer enters conflicting information. For example, If the customer enters 'No' on the paper DMV application and 'Yes' on the kiosk to citizenship question, do we get this customer in the monthly file and visa versa?

**Answer from DMV:** DMV does not validate customer answers to determine if they are conflicting. However, a "no" answer submitted in any method will be captured on the monthly file. An imaging software runs daily to ensure we capture any "no" answers that were submitted on paper, and the monthly file also pulls from the EMV data and the data submitted on mail-in applications.

**Question from Elect:** If the customer enters 'No' on both paper and the kiosk, do you only send one record or both?



**Answer from DMV:** Before the file is sent to you it eliminates the duplicate customer entries. I believe it is the last response date that remains on the file, but I can check on that if you need to know.

## 1.2 Full SBE Data Extract

As with the Monthly Extraction for SBE (DB195), DMV uploads the Full SBE Data Extract for (195) dataset to the DMV sFTP server and notifies SBE-IT that the data is available. DMV deletes the extract file after 5 days. A structured query language (SQL) job retrieves the Full Extract file and prepares it for loading and transformation into VERIS. ELECT uses this data to provide other states in the Electronic Registration and Information Center (ERIC) program with Virginia registered voter information for comparison to the other state's records. Refer to the LMSOP for Voter and DMV Upload to ERIC for details on that process.

### 1.3 Contacts

The following table contains contact information for DMV.

Table 1-1: — DMV Contact List

Contact Name	Contact Phone Number	Contact Email Address
Penny Lavelly	[REDACTED]	Penny.Lavelly@dmv.virginia.gov
David Pierce	[REDACTED]	David.Pierce@dmv.virginia.gov
Patricia Pringle	[REDACTED]	Patricia.Pringle@dmv.virginia.gov
David Carrie	[REDACTED]	David.Carrie@dmv.virginia.gov
David Leahy	[REDACTED]	David.Leahy@dmv.virginia.gov
Stefan Yssel	[REDACTED]	Stefan.Yssel@dmv.virginia.gov
Margaret Robinson	[REDACTED]	Margaret.Robinson@dmv.virginia.gov
Matthew Martin		matthew.martin@dmv.virginia.gov

#### 1.4 Frequency

The following table provides frequency information for each of the DMV Extract files.

Table 1-2: — DMV Extracts Frequency

Frequency	Received	Method
Monthly Extract	11 <sup>th</sup> of the month*	Manual
Full Extract—Monthly	1 <sup>st</sup> of the month*	Manual
Daily Non-citizen File	Everyday	Manual

\* When the actual date is on a weekend DMV makes the extract available on the next business day.

#### 1.5 Security

ELECT IS maintains the login and password for the DMV Extract and Non-Citizen Excel files in a Microsoft OneNote password protected document on a shared drive with limited access to reduce chance of compromising the data. The Information Security Officer (ISO) determines who has access to the passwords. The ISO, Deputy ISO, and Applications Senior Database Architect have access to the passwords. ELECT IS does not currently encrypt the password information but may change to an encrypted password keeper application in the future.

#### 1.6 Memorandum of Understanding

The Memorandum of Understanding (MOU) between ELECT and DMV details the agreement for DMV to provide personal information for individuals with or applying for a Virginia driver's license. More specifically, the purpose of this MOU is to establish the terms and conditions under which, pursuant to Code of Virginia §§ 46.2-208(B)(9) and 46.2-208.1, DMV provides certain data to ELECT. This MOU also establishes that ELECT requires this data to conduct its official duties, and the terms and conditions under which ELECT will receive, use, and protect the data provided by DMV.

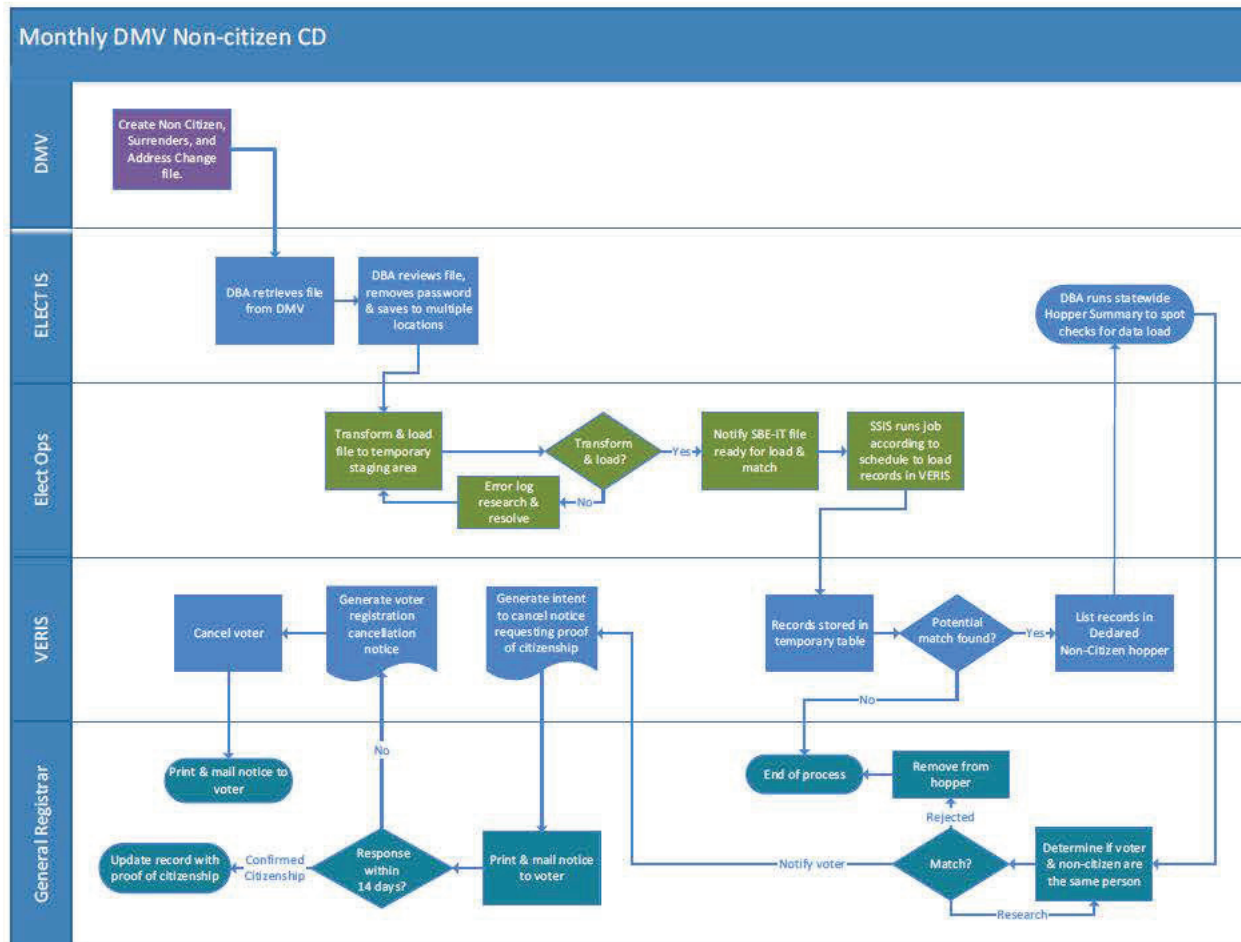
## 2 Process Flow

### 2.1 Monthly Process

#### 2.1.1 Non-Citizen file

This diagram illustrates the detailed process flow for the monthly Non-Citizen CD. It includes actions taken by DMV, ELECT IS, VERIS, and the local GR.

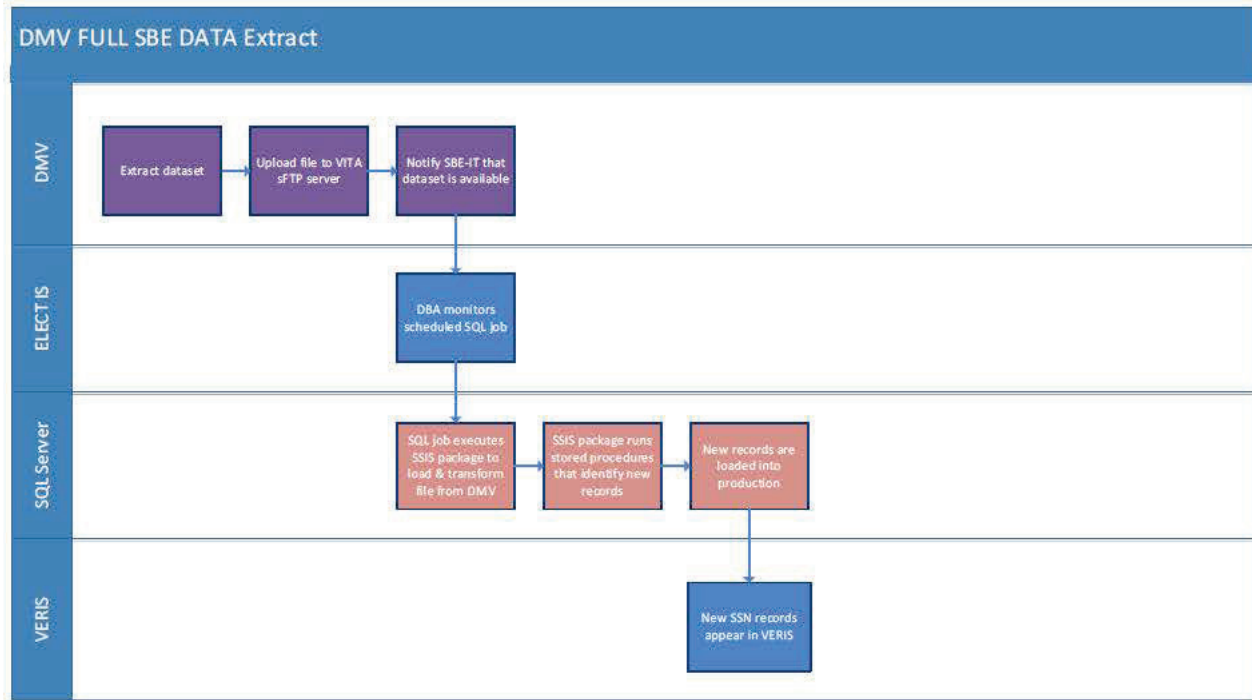
Figure 2-1: — Non-Citizen CD Process Flow



2.1.2 Full SBE Data Extract

This diagram illustrates the detailed process flow for the Full SBE Data Extract. It includes actions taken by DMV, ELECT, VERIS, and the SQL server.

Figure 2-2: — Full SBE Data Extract Process Flow



3 Data Elements

3.1 Dataset Name

Table 3-1: — DMV Extract Names

File Owner	Frequency	File Name	File Location
DMV	Monthly	[REDACTED]	[REDACTED]
DMV	Monthly	[REDACTED]	[REDACTED]
ELECT	Monthly	[REDACTED]	[REDACTED]



File Owner	Frequency	File Name	File Location
ELECT	Monthly	[REDACTED]	[REDACTED]
ELECT	Daily	[REDACTED]	[REDACTED]

### 3.2 Data Element Descriptions

This table identifies the data elements that make up the Monthly Extraction for the ELECT record layout originating from DMV.

#### DMV transaction file layout:

- 7 new Columns in blue were added by DMV to the monthly file for August 2024. They are expected in the Daily Non-Citizen file.

Table 3-3: — Monthly Extraction for ELECT Record Layout

Data Elements (Field Name)	Format	Max. Length (Number of Characters)	Order	File Location
Record Type	Text	1	1	Valid values include: S = Surrender, A = Address Change, N = Non Citizen, P = Paper Application Non-Citizen
Social Security Number	Numeric	9	2	Applicants social security number
Last Name	Text	90	3	Applicants last name
First Name	Text	33	4	Applicants first name
Middle Name	Text	31	5	Applicants middle name
Date of Birth	Numeric	7	6	Valid values include: CYYMMDD, C = 1 = 19, C = 2 = 20

<b>Data Elements (Field Name)</b>	<b>Format</b>	<b>Max. Length (Number of Characters)</b>	<b>Order</b>	<b>File Location</b>
Gender	Text	1	7	Valid values include: M = Male, F = Female
Address1Street	Alpha- numeric	35	8	Address1 = mailing address * Address2 = residential address *
Address1Street-2	Alpha- numeric	35	9	Address1 = mailing address * Address2 = residential address
Address1City	Text	22	10	Address1 = mailing address * Address2 = residential address *
Address1State	Text	2	11	Address1 = mailing address * Address2 = residential address *
Address1Zip	Text	9	12	Address1 = mailing address * Address2 = residential address *
Jurisdiction	Text	4	13	Typically, first letter and last three letters of the jurisdiction. System will match code to DMV provided descriptions from lookup table in VERIS.
Address2Street	Alpha- numeric	35	14	Address2 = residential address *
Address2Street-2	Alpha- numeric	35	15	Address2 = residential address *
Address2City	Text	22	16	Address2 = residential address *
Address2State	Text	2	17	Address2 = residential address *
Address2Zip	Text	9	18	Address2 = residential address *
Declaration Date	Numeric		19	Date DMV applicant declared themselves not a US citizen
Customer Number	Alpha- numeric	12	20	Voter's unique DMV customer number
LP Code	Alpha- numeric	2	21	Legal Presence Code
CUST-VERIFICATION- NO-SAVE	Alpha- numeric	25	22	Verification number returned from SAVE for the customer
CUST-UPDT-DTE-SAVE	Text	8	23	Date of the most recent SAVE update

<b>Data Elements (Field Name)</b>	<b>Format</b>	<b>Max. Length (Number of Characters)</b>	<b>Order</b>	<b>File Location</b>
DOC-DESC1	Alpha- numeric	3	24	Document provided to prove legal presence
DOC-NO1	Alpha- numeric	15	25	Document number from document used to prove legal presence
DOC-DESC2	Alpha- numeric	3	24	Document provided to prove legal presence
DOC-NO2	Alpha- numeric	15	25	Document number from document used to prove legal presence
DOC-DESC3	Alpha- numeric	3	24	Document provided to prove legal presence
DOC-NO3	Alpha- numeric	15	25	Document number from document used to prove legal presence
NAME-SUFFIX	Alpha- numeric	5	26	The suffix for an individual's name

\*DMV provides only one address, it is residential; if multiple addresses, 1<sup>st</sup> = mailing address, 2<sup>nd</sup> = residential.

This table identifies the record layout for VERIS. The asterisk (\*) following the field name indicates the data comes from the DMV Monthly Extraction for SBE (DB195) file.

Table 3-2: — DMV to VERIS Mapping for Non-Citizen Record Layout

<b>Data Elements (Field Name)</b>	<b>Format</b>	<b>Max. Length (Number of Characters)</b>	<b>Order</b>	<b>File Location</b>
Notifying Agency	Text	50	1	DMV
Agency Identifier	Text	50	2	Unique identifier
Update Type *	Text	1	3	N = DMV Non-Citizen



Data Elements (Field Name)	Format	Max. Length (Number of Characters)	Order	File Location
Effective Date *	MMDDYYYY	8	4	Declaration Date
First Name *	Text	50	5	First Name
Middle Name *	Text	50	6	Middle Name
Last Name *	Text	50	7	Last Name
Name Suffix	Text	3	8	
DOB *	MMDDYYYY	8	9	Date of Birth
Gender *	Text	1	10	Gender
Street *	Alpha- numeric	50	11	Residence Address: # Street
Street-2 *	Alpha- numeric	50	12	Residence Address: # Street-2
City *	Text	20	13	Residence Address: City
State *	Text	2	14	Residence Address: State
Country *	Text	2	15	Residence: Country
Zip *	Numeric	5	16	Residence: ZIP
ZipPlus4 *	Numeric	10	17	Residence: Zip plus 4
SSN	Numeric	9	18	Social Security Number
Locality Code	Numeric	3	19	From Jurisdiction table map
Aliases				
SSN2	Numeric	9	20	
SSN3	Numeric	9	21	
SSN4	Numeric	9	22	
Alias First Name	Text	50	23	
Alias Middle Name	Text	50	24	
Alias Last Name	Text	50	25	
Alias Name Suffix	Text	3	26	
Comment	Text	255	27	Format will be: <Field1>=<Value1>, ... <FieldN>=<ValueN>. For example, "Jurisdiction Code=ARIA."





## 4 Process Steps

### 4.1 Non-Citizen Process

For a step-by-step guide to downloading and processing, please refer to **LMSOP StepbyStep DMV NonCitizen.docx**.

1. The LM Data Analyst initiates the SSIS job [REDACTED] – PreProcess DMV Non Citizen Monthly File
2. The process executes the file, parsing and validating all records in the same order as received to preload into a temporary staging area in an agency non-citizen temporary table.
3. During preprocessing the following match criteria to our voters list is considered to move records to staging
  - SSN + DOB + first three letters of first name + first three letters of last name
4. Once the process loads the records into the agency non-citizen table, the process:
  - a. Executes the Matching to VERIS Voters stored procedure that compares all active and inactive status voter registrations to the records in the non-citizen table using a standard confidence factor algorithm of a 65% or greater match.
  - b. At a minimum, one of the following sets of criteria must be the same:
    - i. Full social security number
    - ii. First and Last name
    - iii. Last name and date of birth
5. VERIS records potential matches in the Declared Non-Citizen Hopper.
6. The GR reviews the match to determine if the non-citizen and registered voter identified by VERIS is the same person.
7. The GR updates the record and VERIS takes the corresponding action:

Table 4-1: — GR Decision/Result Matrix


GR Update	VERIS Action
Citizenship Confirm	Removes pending Non-Citizen Affirmation flag
Cancel Voter	Cancels the voter and generates a Cancellation Notice to the cancelled voter
Match Rejected	Deletes the match from the Hopper
Notify voter	Generates the Notice of Intent to Cancel and provides instructions for proving citizenship

<b>GR Update</b>	<b>VERIS Action</b>
Research Needed	Holds the match in Hopper until GR takes follow up action

#### 4.2 Full DMV Extract Process

DMV and ELECT perform the following list maintenance steps using the Full DMV Monthly Extract. For a step-by-step guide to downloading and processing, please refer to [LMSOP StepbyStep DMV Full SBE.docx](#).

1. The DMV FULL Monthly Pre-Process SSIS Job ([REDACTED] DMV FULL Monthly on 2<sup>nd</sup> at 10:15 PM) runs AUTOMATICALLY every month on the 2<sup>nd</sup> day at 10:15 pm.

 DMV includes all DMV customer records with the exception of records for individuals under the age of 17.

2. DMV deletes the full extract from the server location after 5 calendar days from the date DMV posted it.

3. The SSIS package performs the following steps:

- a. Retrieves the file from DMV via sFTP and copies to the server

[REDACTED]

- b. Truncates the file name to [REDACTED]

- c. Loads the full file into [REDACTED]

- d. Truncates the temporary (TEMP) table

- e. Loads the following columns into the TEMP table [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- f. Removes all SSN records

- g. Removes all duplicate SSN records

- h. Updates temp table with ID number

- i. Truncates table [REDACTED]

- j. Loads new records that do not exist in [REDACTED]

- k. Execute SQL task



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

---

## Hopper Processing and Information

## Step by Step Instructions

# Contents

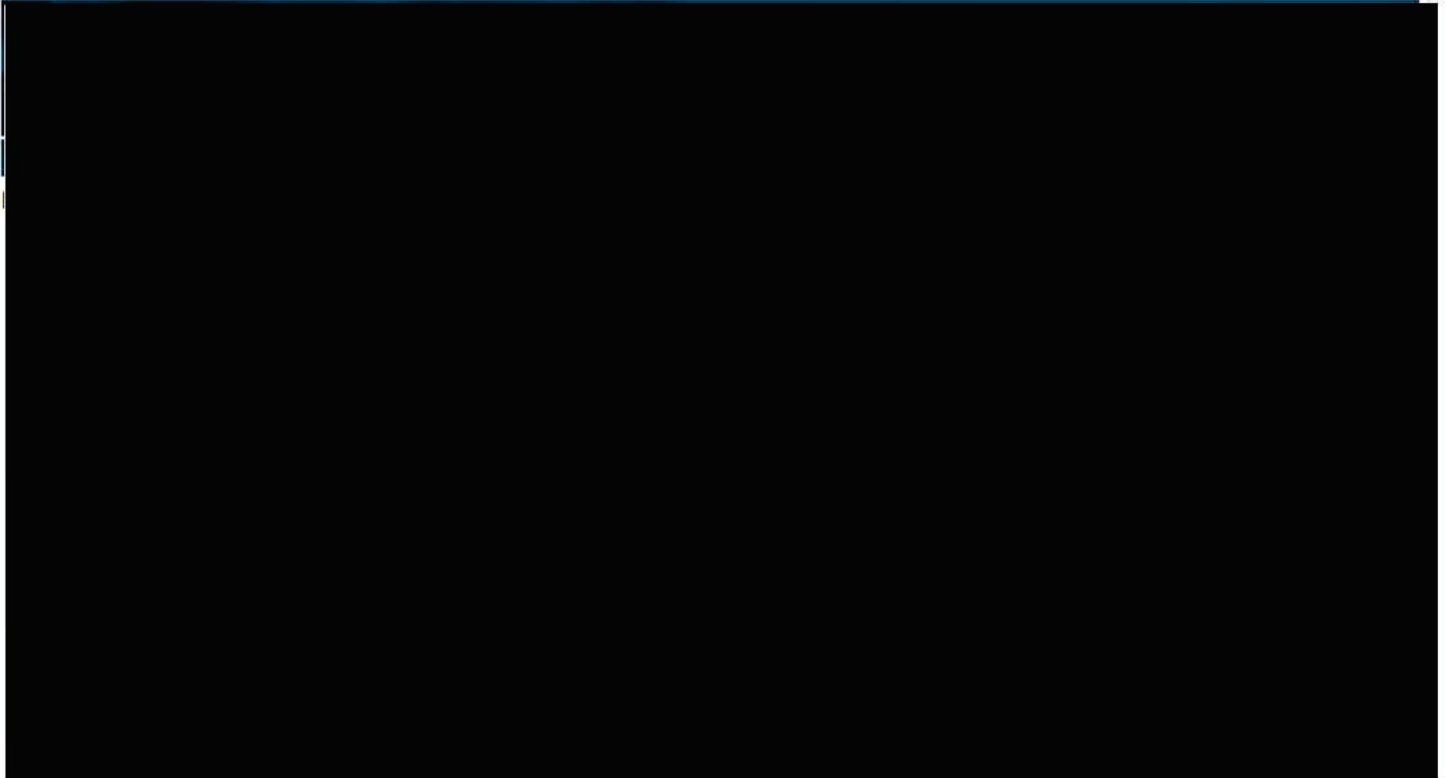
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## General Hopper Information

---

In VERIS, the term "hopper" refers to a repository of specific record types that require attention from the user. The hoppers allow the user to easily access these records directly from the VERIS home page instead of having to locate the records individually.



The active hoppers are visible in the Hopper Pane, an area located on the right side of the VERIS home page. The Hopper Pane is expanded by default and may be collapsed by clicking the small triangle located in the Hopper Pane heading.

Only those hoppers with pending records are displayed in the Hopper Pane. If there are no records of a certain type, that hopper will not be displayed in the Hopper Pane.

There are two main objects located in the Hopper Pane: the hopper name and hopper URL. The left side of the pane contains a listing of hopper names with pending records and the right side contains a URL that corresponds to the hopper name. The URL also lists the number of pending records for that particular hopper.



## Hopper Master List

---

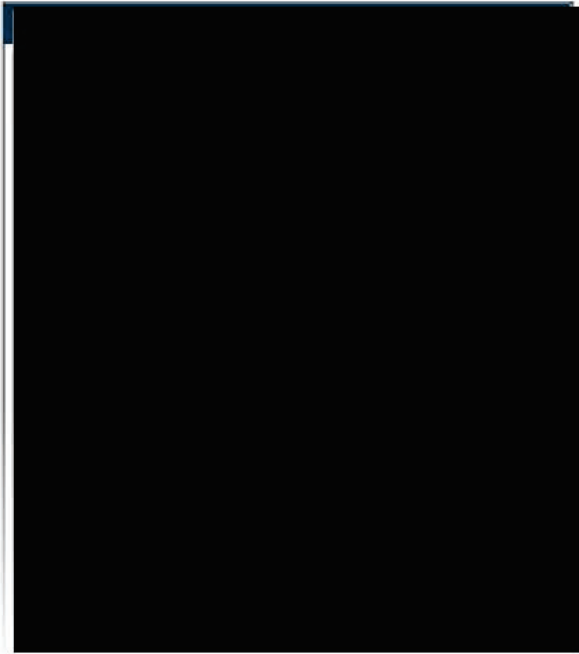
The following is a list of all of the hoppers that can be found in VERIS. They are listed in the order in which they display in VERIS.

1. DMV OAB Applications
2. Paper OAB Applications
3. Paper OAB - Expired
4. In-Person Absentees
5. DMV Registrations
6. DMV OVR Applications
7. Paper OVR Applications
8. Felony Convictions
9. Duplicates
10. Incomplete Registrations
11. Transfers
12. Death
13. Reinstate Voters
14. Felony reinstatements
15. Mentally Incapacitated
16. DMV Out of State
17. Scanned Document Images
18. Declared Non-Citizen
19. Batch reports
20. Queued reports
21. SSIS Packages
22. NCOA Matches
23. Notifications

## Viewing Voter Matches

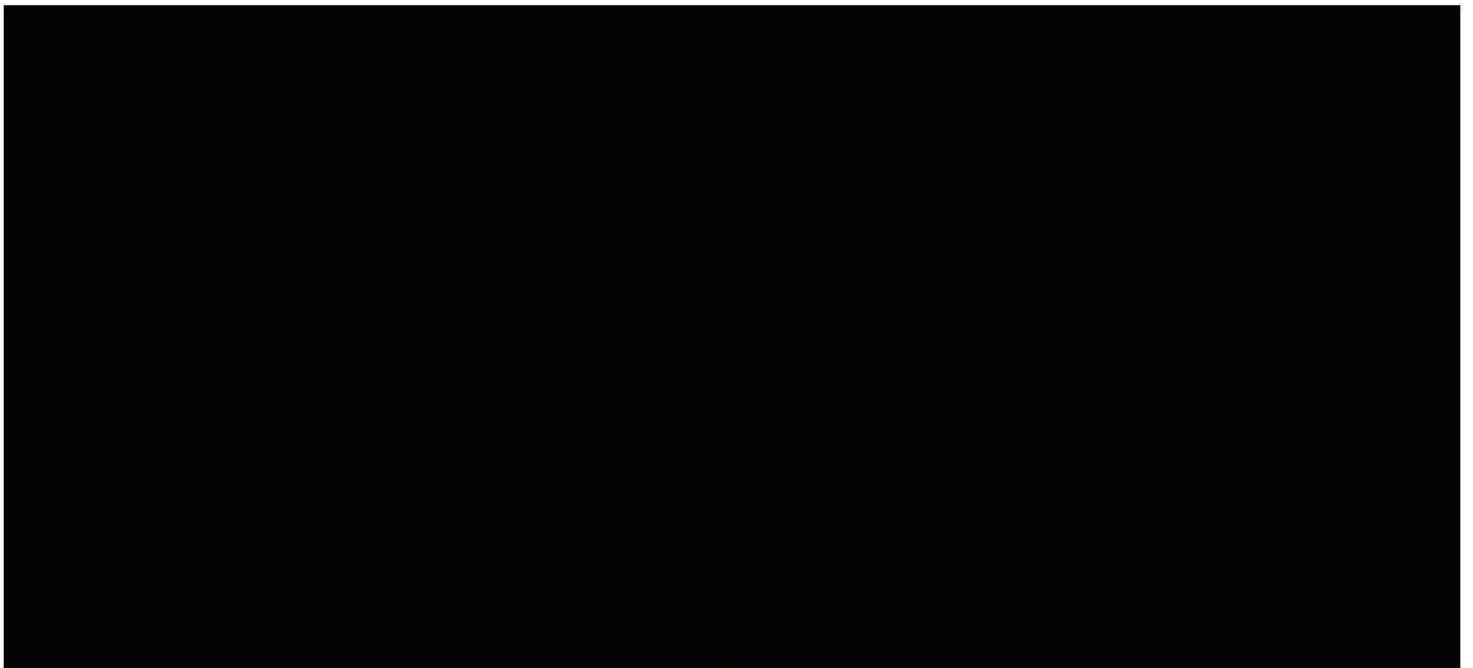
---

To view the records for a specific hopper, click the URL that corresponds to the hopper that you wish to view.



**Note:** The URL shows the number of pending records for that particular hopper.

The Hopper Search page for the hopper that you selected will be displayed with all pertinent records shown in the data grid.



## Processing Hopper Records

---

This section of the Hopper Processing and Information Step-by-Step document contains information about how to process records in various Hoppers. You may find additional information about many of the Hoppers shown in this document in the specific Step-by-Step Document for that area of VERIS. The documents are referenced when possible.

The order of the processes listed below corresponds to the order in which the hoppers display in VERIS. See the **Hopper Master List** section of this document to see the order.

### Processing DMV and Paper OAB (Online Absentee Ballot) Hopper Records

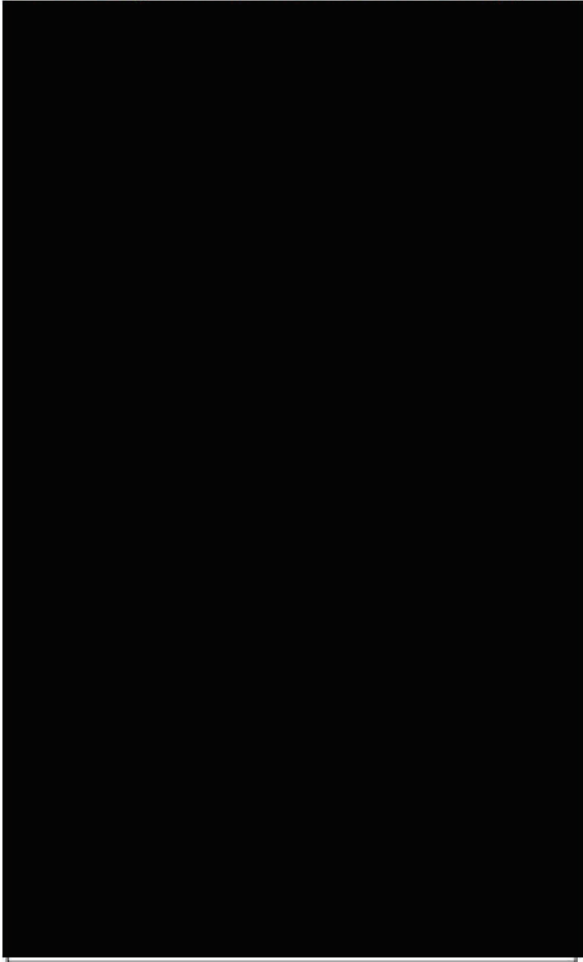


This procedure applies to the following hopper(s):

1. DMV OAB Applications
2. Paper OAB Applications
3. Paper OAB - Expired

The procedure for processing DMV and Paper OAB hopper records is described in the **Online Absentee Ballot Processing Step-by-Step** document.

### Processing In-Person Absentees Hopper Records

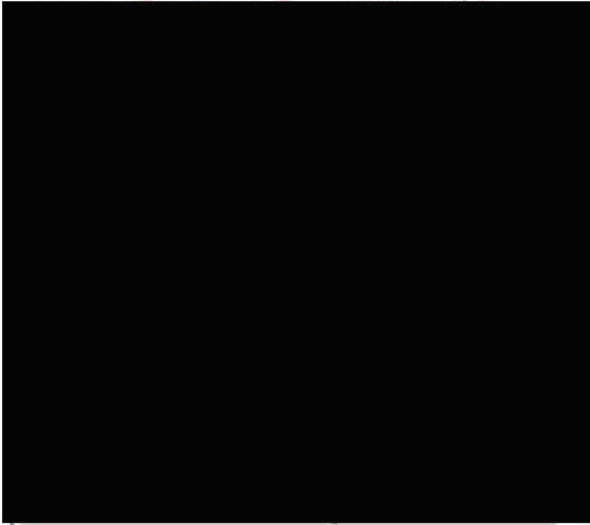


This procedure applies to the following hopper(s):

In-Person Absentees

The procedure for processing In-Person Absentee records is described in the **Absentee Step-by-Step** document.

### Processing DMV Registration Hopper Records

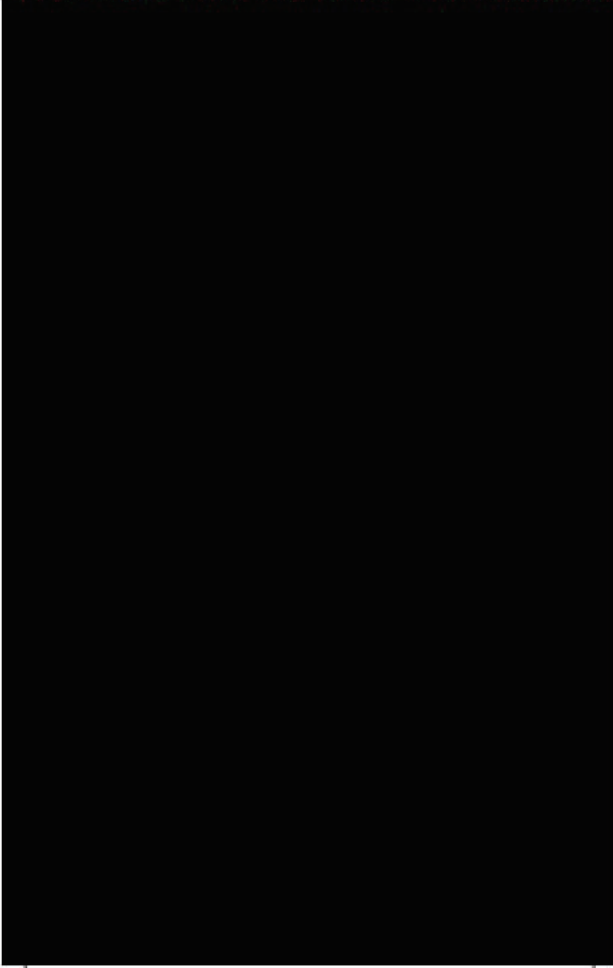


This procedure applies to the following hopper(s):

DMV Registrations

The procedure for processing DMV Registrations records is described in the **Add-Update Voter Step-by-Step** document.

## Processing DMV and Paper OVR Applications Hopper Records

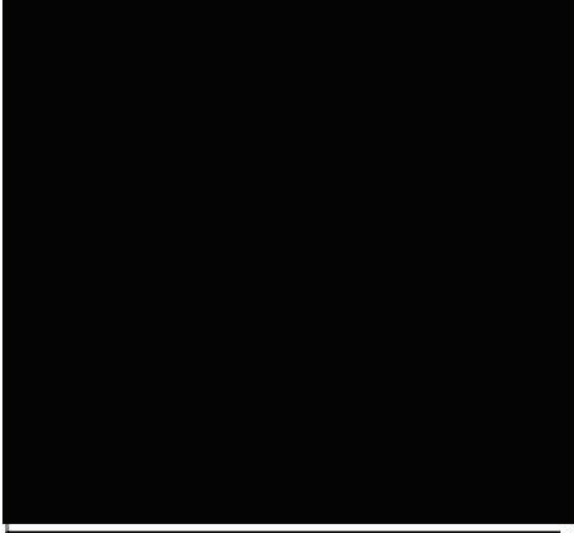


This procedure applies to the following hopper(s):

1. DMV OVR Applications
2. Paper OVR Applications

The procedure for processing DMV and Paper OVR Applications records is described in the **OVR Processing Step-by-Step** document.

### Processing Felony Convictions Hopper Records



This procedure applies to the following hopper(s):

Felony Conviction

The procedure for processing Felony Conviction records is described in the **Add-Update Voter Step-by-Step** document.

### Processing Duplicates Hopper Records



This procedure applies to the following hopper(s):

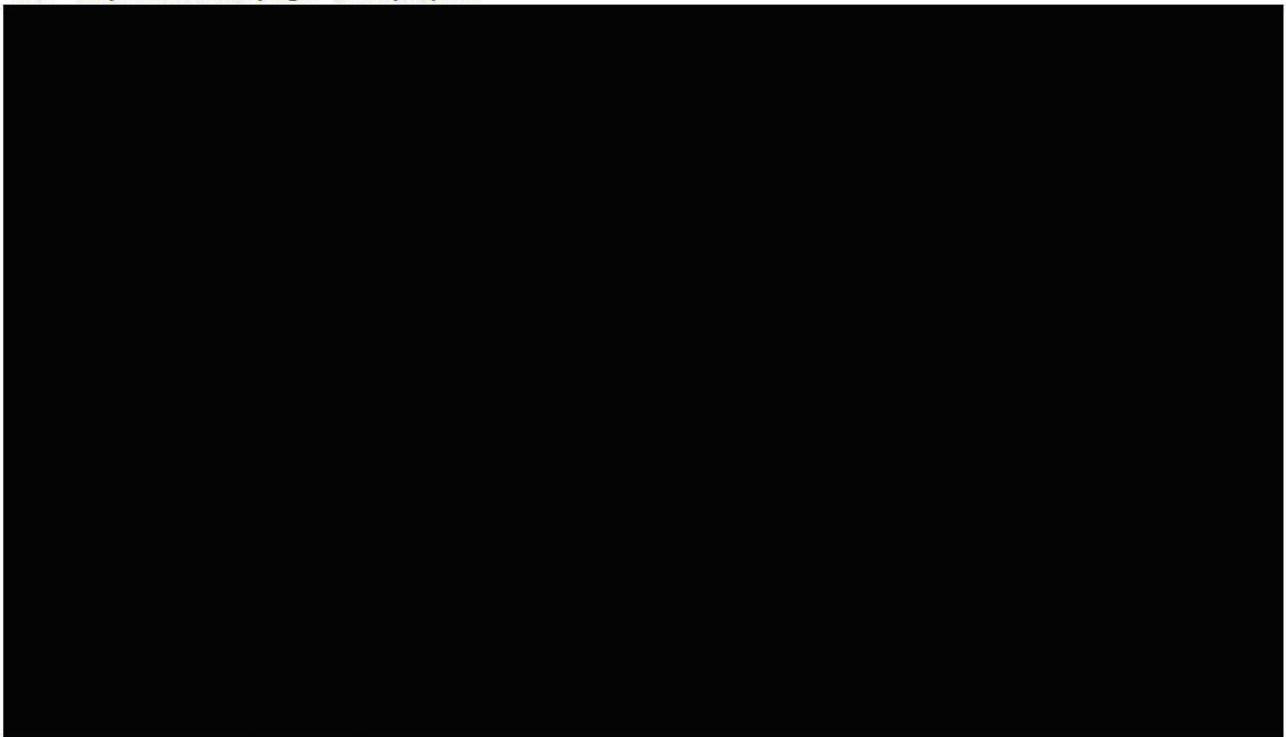
Duplicates

1. Click on the "Duplicates" Hopper.

2. "Duplicate Search" page is displayed.



3. If the voter, you search does not display on the list then Enter the "Last name" and click "Search".
4. Click on the link in the % column to match that you wish to process.  
The "Duplicate view page" is displayed.



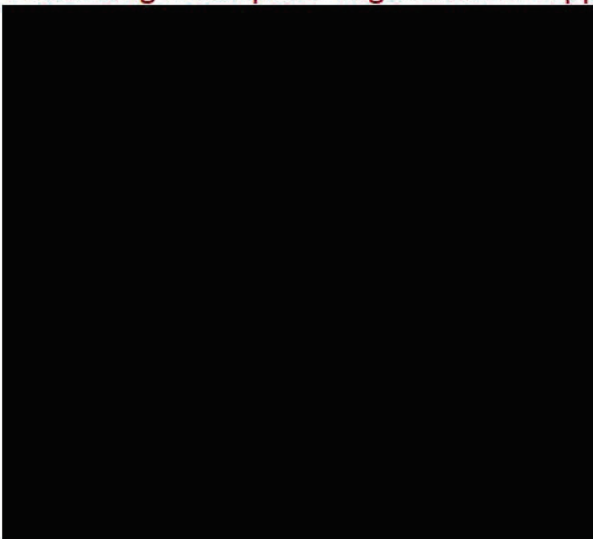
There are no other duplicate matches available.



5. Perform one of the following:

<i>If...</i>	<i>Then...</i>
<p>The voter match is approved, the duplicate Voter Record merge as single record.</p>	<p>Select <b>Merge Approve</b> from the Action drop-down list box.</p> <p><i>Note:</i> When you click the Save button, a pop-up shows for conformation of merger. Click “ok”, the system Merge the Duplicate record as single record, removes the name of the voter from the “Duplicates” Hopper.</p>
<p>The voter match is not accepted, then Duplicate Voter Record remains the same.</p>	<p>Select <b>Merge Rejected</b> from the Action drop-down list box.</p> <p><i>Note:</i> When you click the Save button, the system only rejects the record as Duplicate Record, the record will be removed from the “Duplicates” hopper but remain as individual record.</p>
<p>Further research is needed to determine if the Hopper record matches.</p>	<p>Select <b>Research Needed</b> from the Action drop-down list box.</p> <p><i>Note:</i> When you click the Save button, the system keeps in the hopper to be processed later and set 'R' flag to “Yes”.</p>

Processing Incomplete Registrations Hopper Records

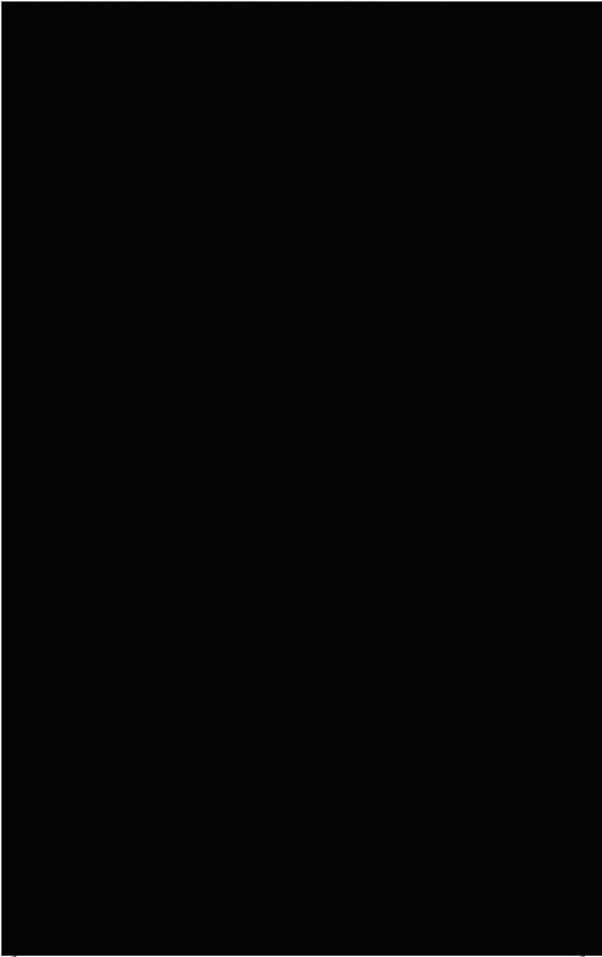


This procedure applies to the following hopper(s):

**Incomplete Registrations**

The procedure for processing Incomplete Registrations records is described in the **Add-Update Voter Step-by-Step** document.

**Processing Transfers Hopper Records**

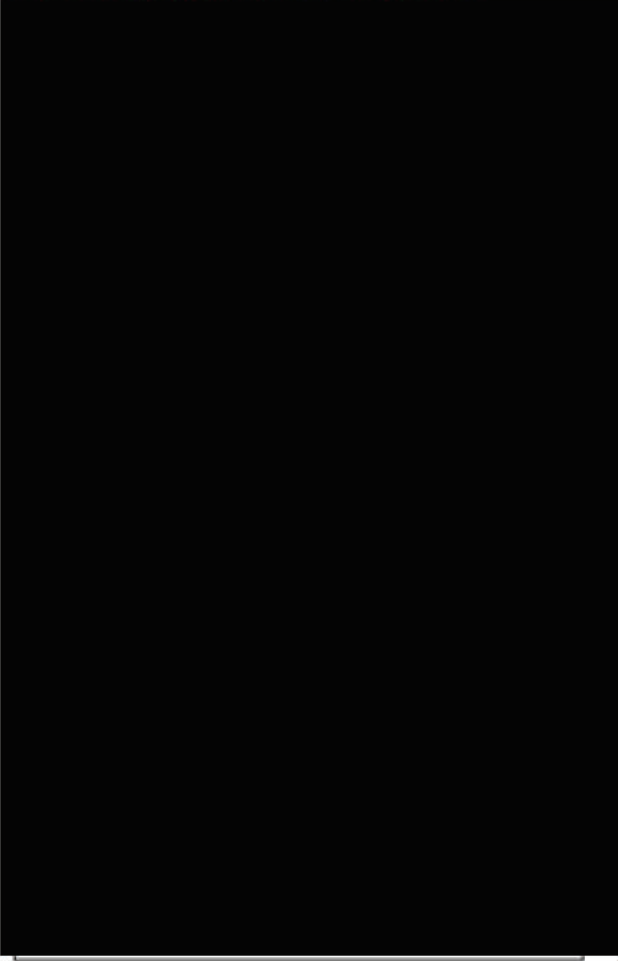


This procedure applies to the following hopper(s):

**Transfers**

The procedure for processing Transfers records is described in the **Add-Update Voter Step-by-Step** document.

## Processing Death Hopper Records

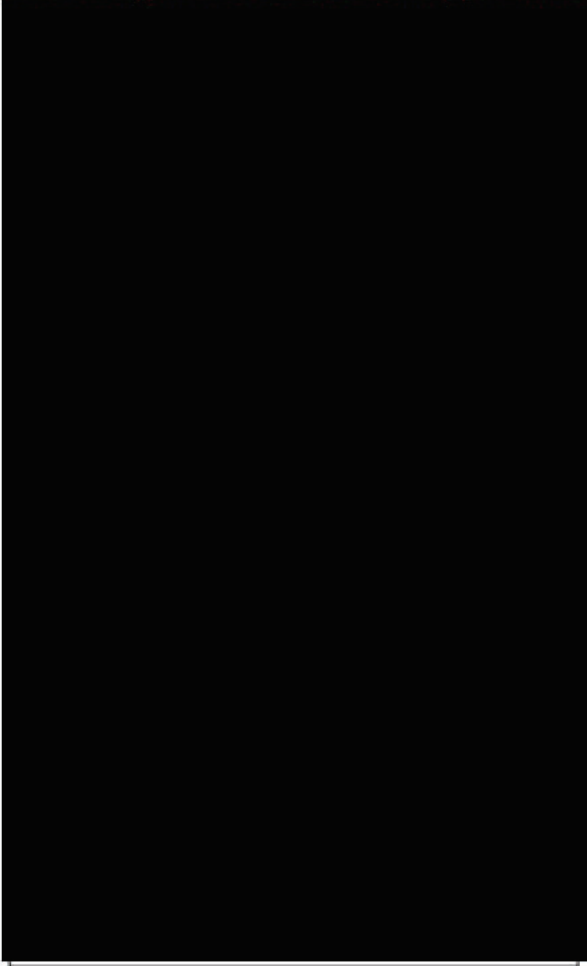


This procedure applies to the following hopper(s):

Death

The procedure for processing Death records is described in the **Add-Update Voter Step-by-Step** document.

### Processing Reinstater Voters Hopper Records



This procedure applies to the following hopper(s):

Reinstater Voters

The procedure for processing Reinstater Voters records is described in the **Add-Update Voter Step-by-Step** document.

## Processing Felony Reinstatements Hopper Records

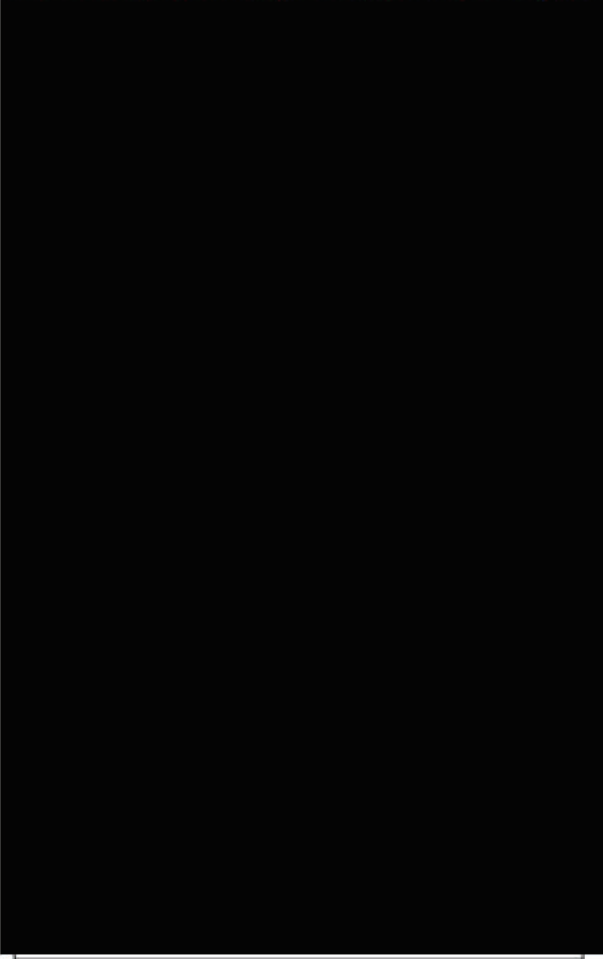


This procedure applies to the following hopper(s):

Felony Reinstatements

The procedure for processing Felony Reinstatements records is described in the **Add-Update Voter Step-by-Step** document.

## Processing Mentally Incapacitated Hopper Records

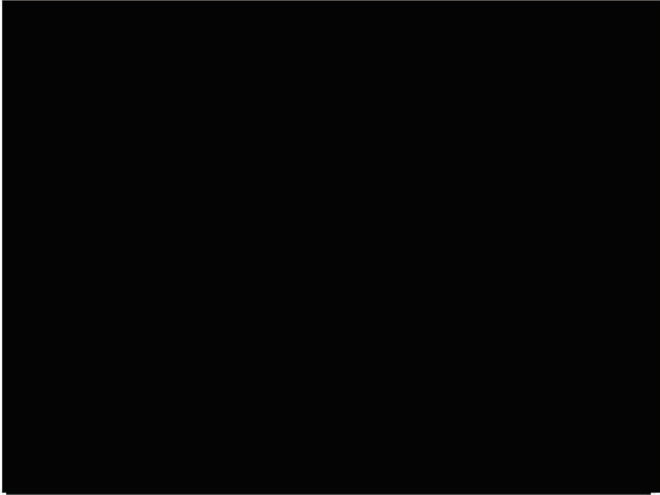


This procedure applies to the following hopper(s):

Mentally Incapacitated

The procedure for processing Mentally Incapacitated records is described in the **Add-Update Voter Step-by-Step** document.

## Processing DMV Out of State Hopper Records

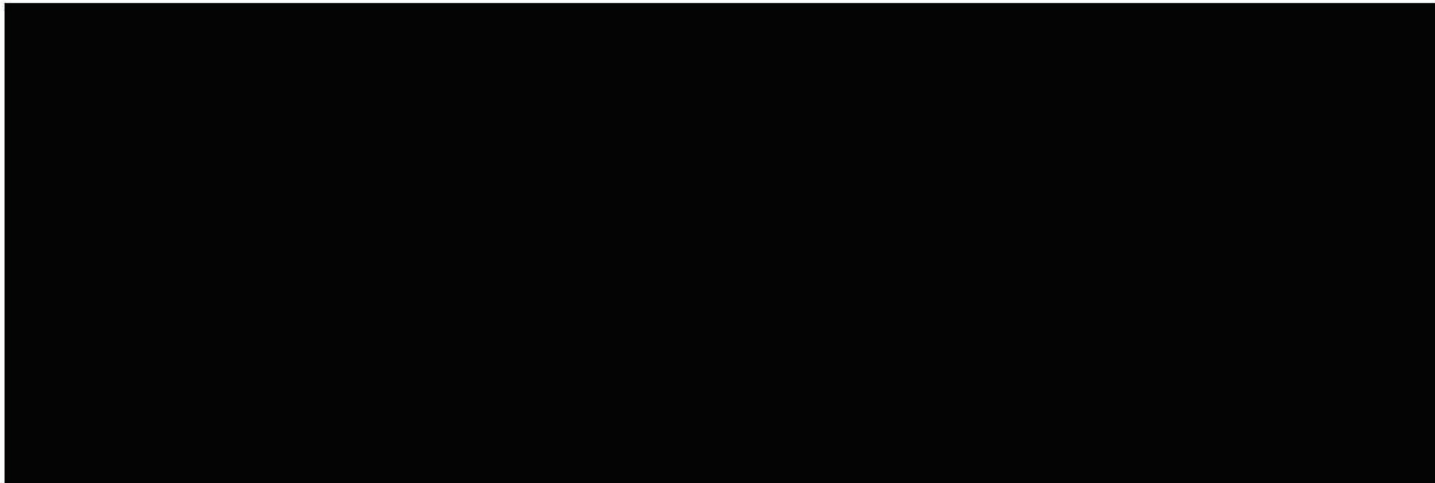


This procedure applies to the following hopper(s):

DMV Out of State

1. Follow the procedure for **Viewing Voter Matches** to view the DMV Out of State Hopper.

The DMV Out of State Matches page is displayed with the data grid populated.



2. Click the link in the % column that corresponds to the match that you wish to process.

The Hopper View page is displayed.



3. Perform one of the following:

<i>If...</i>	<i>Then...</i>
<p>The voter match is approved, the voter registration status is marked 'Cancelled' and cancellation notices should be generated for the voter.</p>	<p>Select <b>Match Approved</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system changes the registration status of the voter’s current Voter Registration record to “Cancelled”, change the NVRA Status Reason to “DMV Surrender Out Of State”, set Comment on "Comment Detail Page" to “Status was changed to Cancelled on {Date, Time}. Reason: DMV Surrender out of state.”, remove the out of state record from the OOS Hopper and generate correspondence notices as ENG_Cancellation Letter, VA Registration Mailing Address and ENG_Cancellation Letter, Out of State Address.</p>



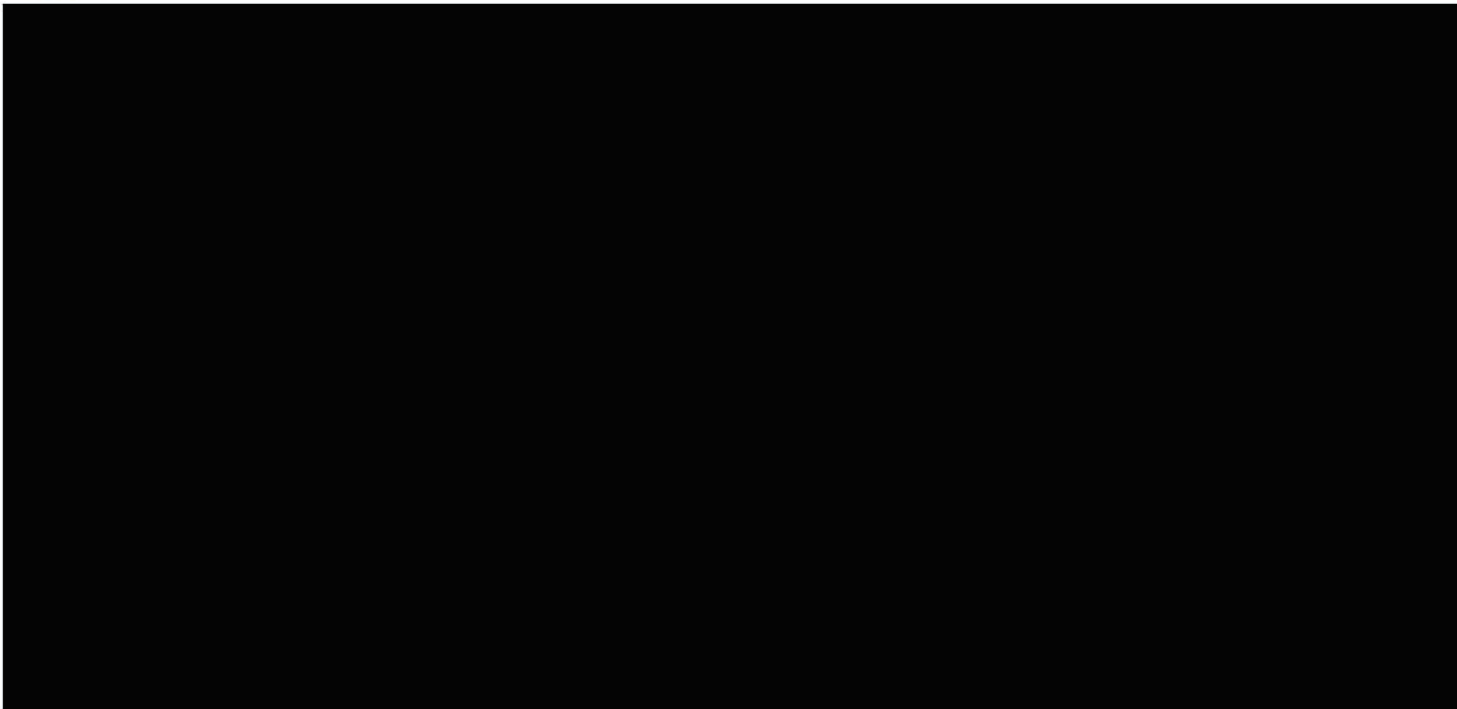
<i>If...</i>	<i>Then...</i>
The voter match is not accepted, and the record is removed from the hopper.	Select <b>Match Rejected</b> from the <b>Action</b> drop-down list box.  <i>Note:</i> When you click the <b>Save</b> button, the system only removes the voter from the hopper.
Further research is needed to determine if the Hopper record matches.	Select <b>Research Needed</b> from the <b>Action</b> drop-down list box.  <i>Note:</i> When you click the <b>Save</b> button, the system keeps in the hopper to be processed later and set 'R' flag to true.

4. Enter additional information in the **Comments** field as necessary.
5. Click the **Save** button.

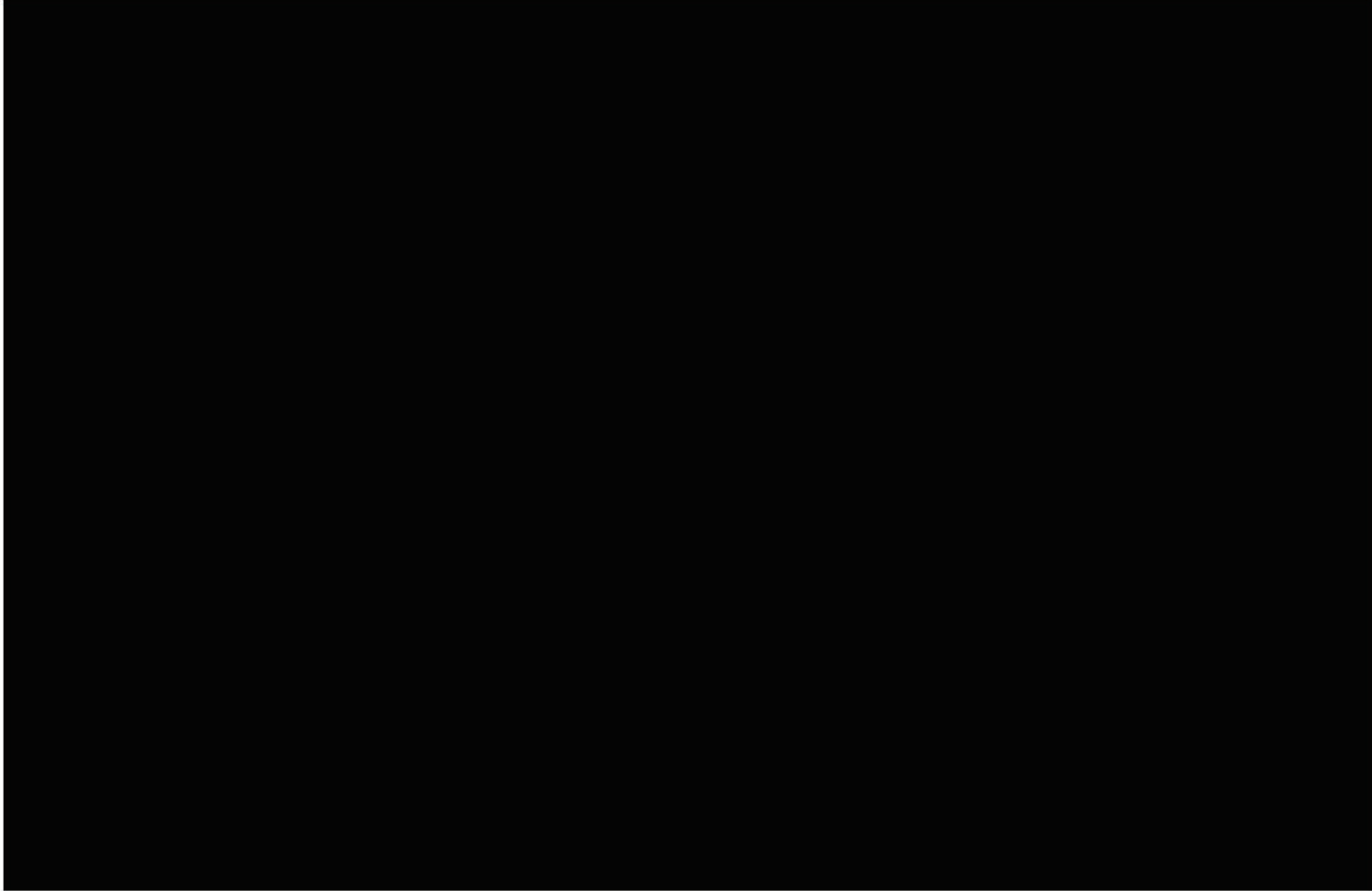
The information is saved to the database.

*Note:* You may click the **Return** button to return to the **Hopper Search** page without saving.

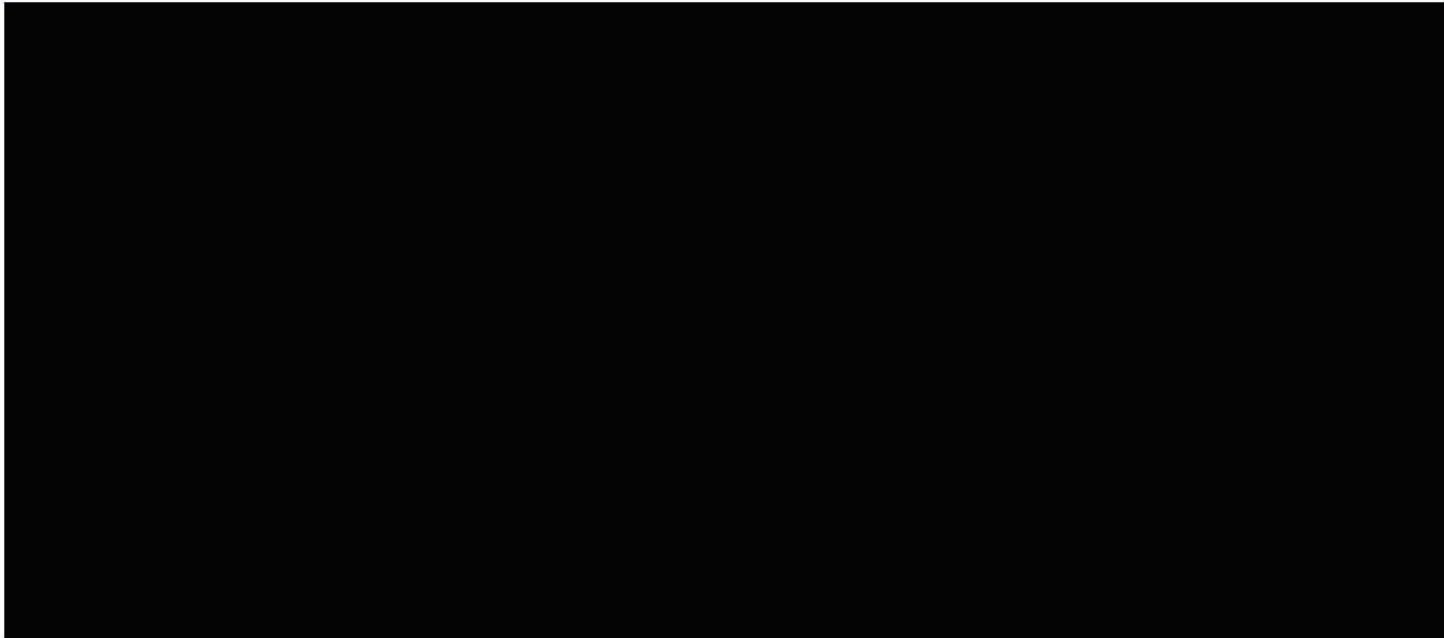
6. Click **Home, Voter, Voter Search**, enter **First and Last name**, choose **Registration Status** as **Cancelled** and click **Search**.



7. Select the matching voter and land on Overview page.



8. ENG\_Cancellation Letter, VA Registration Mailing Address will display.



9. Click magnify glass for each letter to see the actual letter or click the printer to print the letters.

MADISON COUNTY  
Office of Voter Registration  
PO Box 267  
Madison, VA 22727-0267

MADISON COUNTY  
Office of Voter Registration  
PO Box 267  
Madison, VA 22727-0267

E-mail: registrar@madisonco.virginia.gov Phone: 540-948-6533  
Website: https://www.madisonco.virginia.gov/registrar Fax:

E-mail: registrar@madisonco.virginia.gov Phone: 540-948-6533  
Website: https://www.madisonco.virginia.gov/registrar Fax:

TO: [REDACTED] DATE: 9/11/2023

TO: [REDACTED] DATE: 9/11/2023

### Voter Registration Cancellation Notice

This office has determined that [REDACTED] is no longer entitled to be registered to vote in the Commonwealth of Virginia because you have moved to another state. Therefore, as permitted by §24.2-427 of the Code of Virginia, this office has stricken your name from the Voter Registration List of MADISON COUNTY.

If you have not registered to vote in the state in which you currently reside, you may apply to register to vote by contacting the voter registration office near you for the voter registration application of your state or by accessing the Election Assistance Commission website at [www.eac.gov](http://www.eac.gov) to obtain the federal voter registration application.

If you believe the removal of [REDACTED] from the Voter Registration List is incorrect, please contact this office at 540-948-6533.

### Voter Registration Cancellation Notice

This office has determined that [REDACTED] is no longer entitled to be registered to vote in the Commonwealth of Virginia because you have moved to another state. Therefore, as permitted by §24.2-427 of the Code of Virginia, this office has stricken your name from the Voter Registration List of MADISON COUNTY.

If you have not registered to vote in the state in which you currently reside, you may apply to register to vote by contacting the voter registration office near you for the voter registration application of your state or by accessing the Election Assistance Commission website at [www.eac.gov](http://www.eac.gov) to obtain the federal voter registration application.

If you believe the removal of [REDACTED] from the Voter Registration List is incorrect, please contact this office at 540-948-6533.



LAUREN Y. EANES



LAUREN Y. EANES  
General Registrar  
Madison County Voter Registration Office

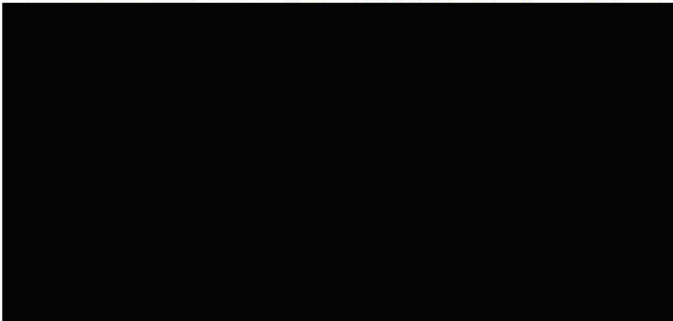
**Processing the DMV Out of State Cancellation Letters from batch report:**

To access the DMV OOS cancellation letters from the batch report, perform the following steps:

1. In VERIS Homepage, move the cursor to “Report” > “Batch Reporting”.
2. The Batch Reporting page is displayed. It contains both “Cancellation letter Out of State Address” and “Cancellation Letter VA Registration Mailing Address” in Spanish as well as English.



3. For ENG\_Cancellation Letter, Out of State Address  
Click on ENG\_Cancellation Letter, Out of State Address. It will display the list of all the cancelled voter.

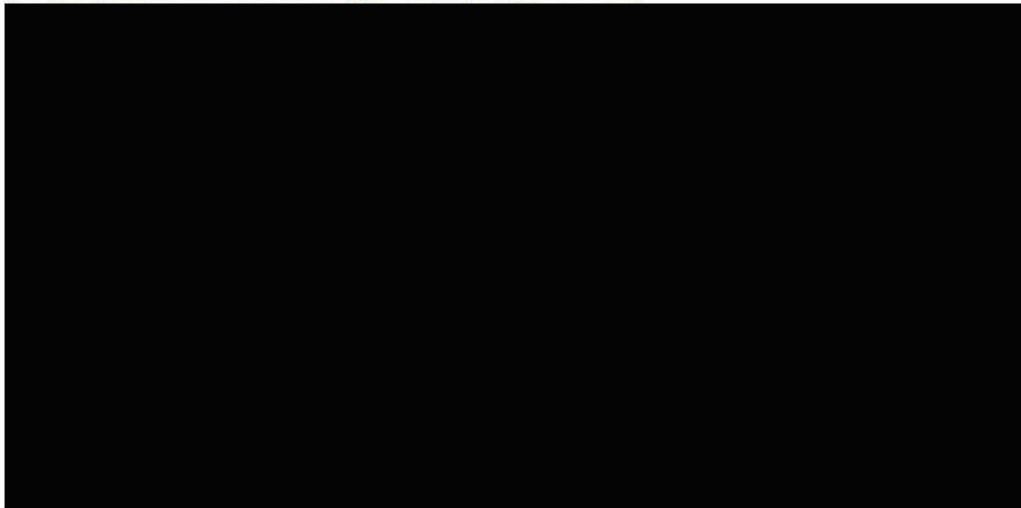


4. For ENG\_Cancellation Letter, VA Registration Mailing Address.  
Click on ENG\_Cancellation Letter, VA Registration Mailing Address. It will display the list of cancelled voters with VA Mailing Address.



**Generating the Cancellation – Out of State Report:**

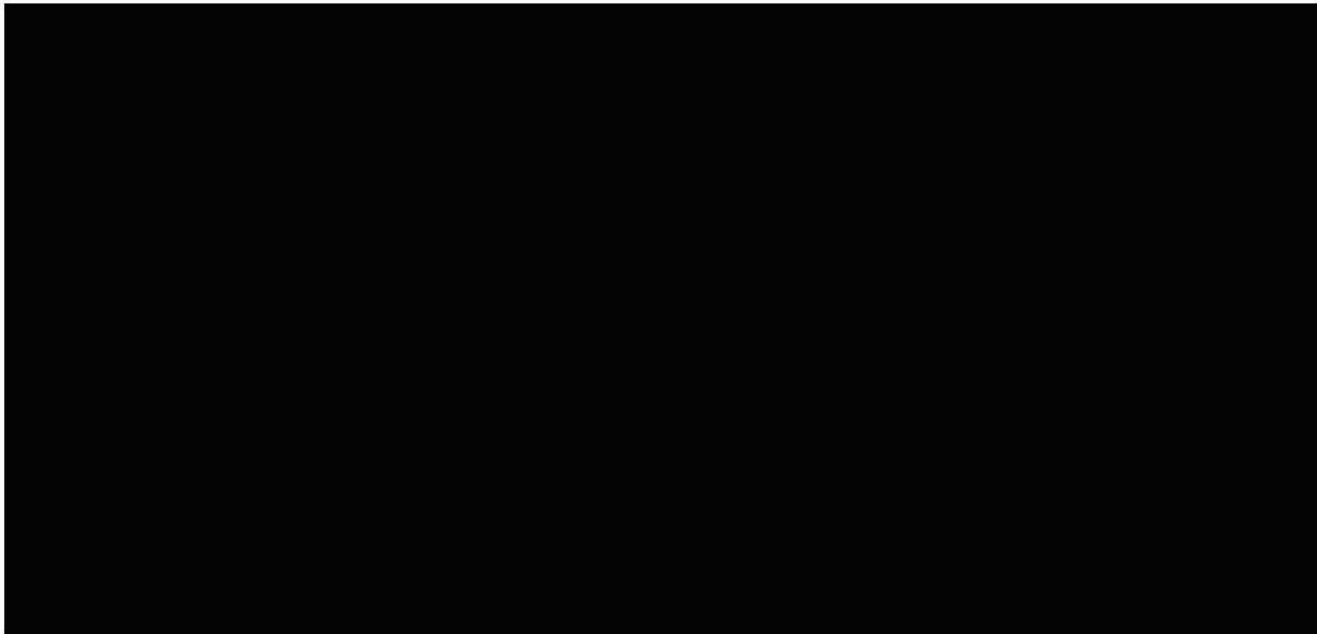
1. In VERIS Homepage, move cursor to Select Report > Report Library.
2. Select “Voter” from the Categories drop down menu.



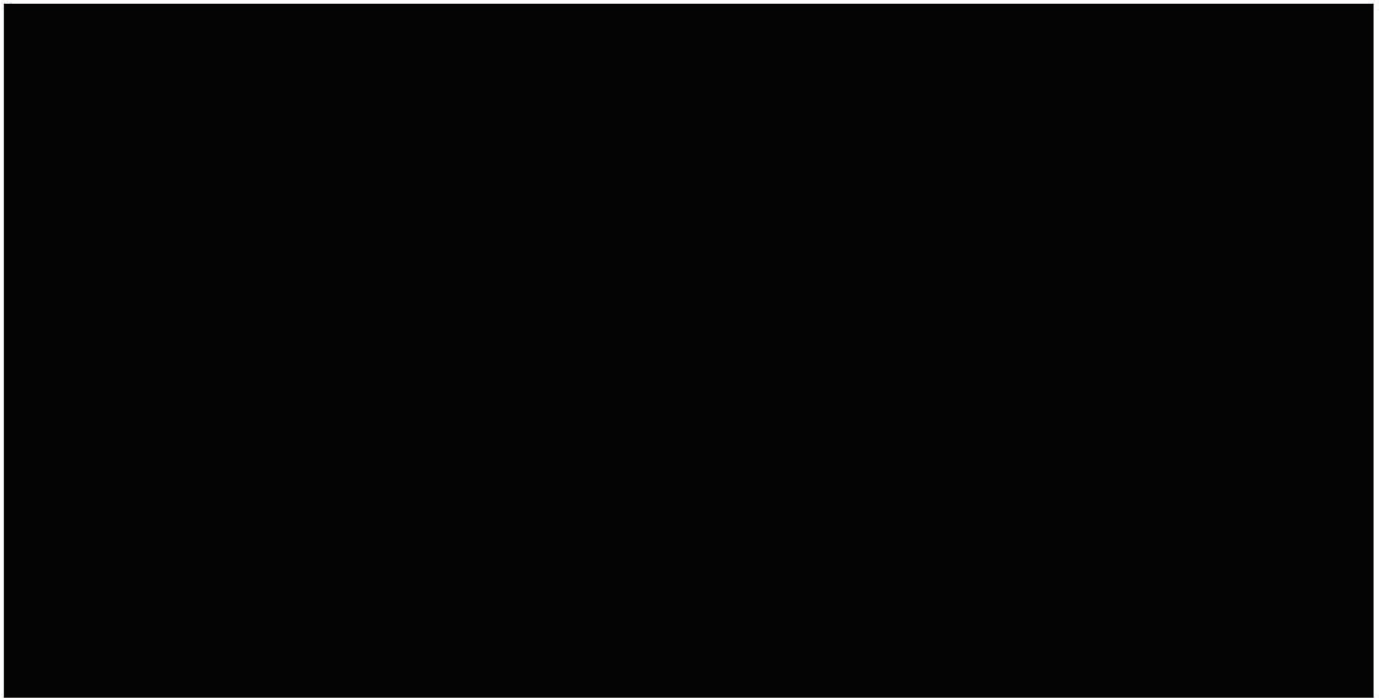
- 3.
4. Select “Cancellation-Out of State” from the list.



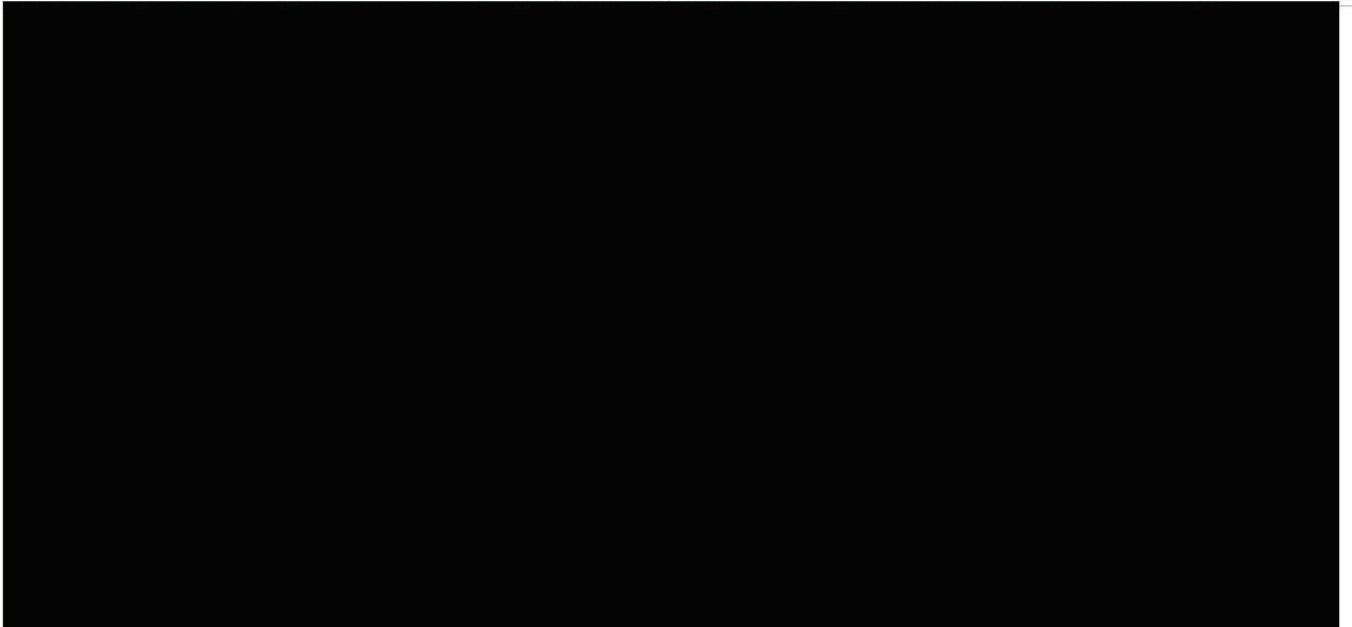
5. Report Library page for Cancellation- Out of state report is displayed.



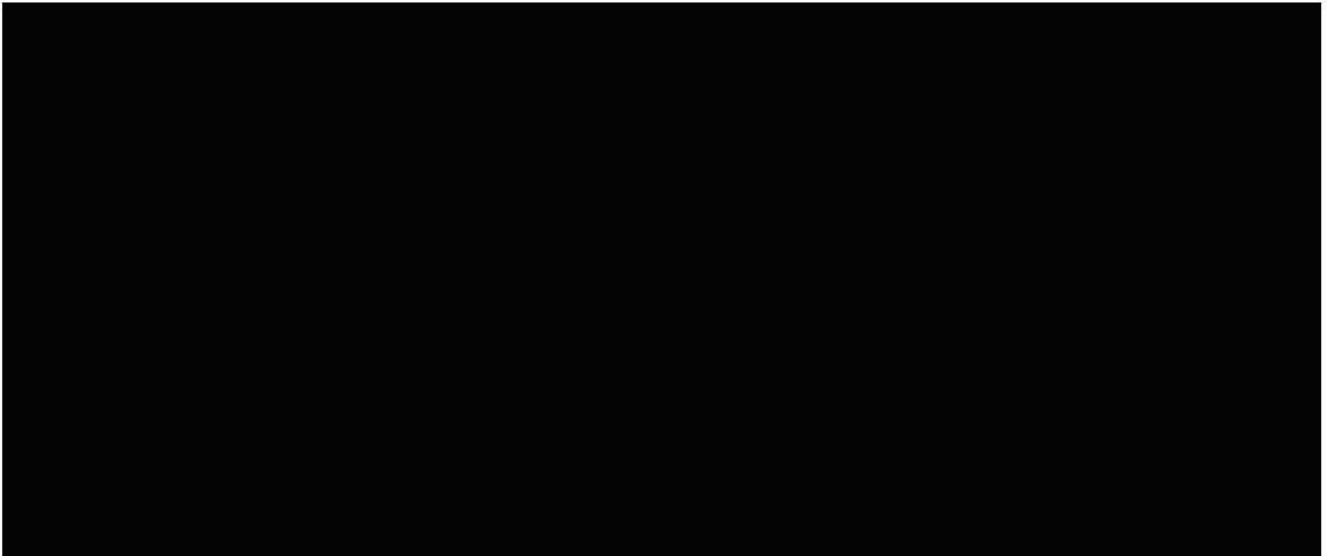
6. Fill the information along with the "Start date" and "End date" of the batch to be generated.



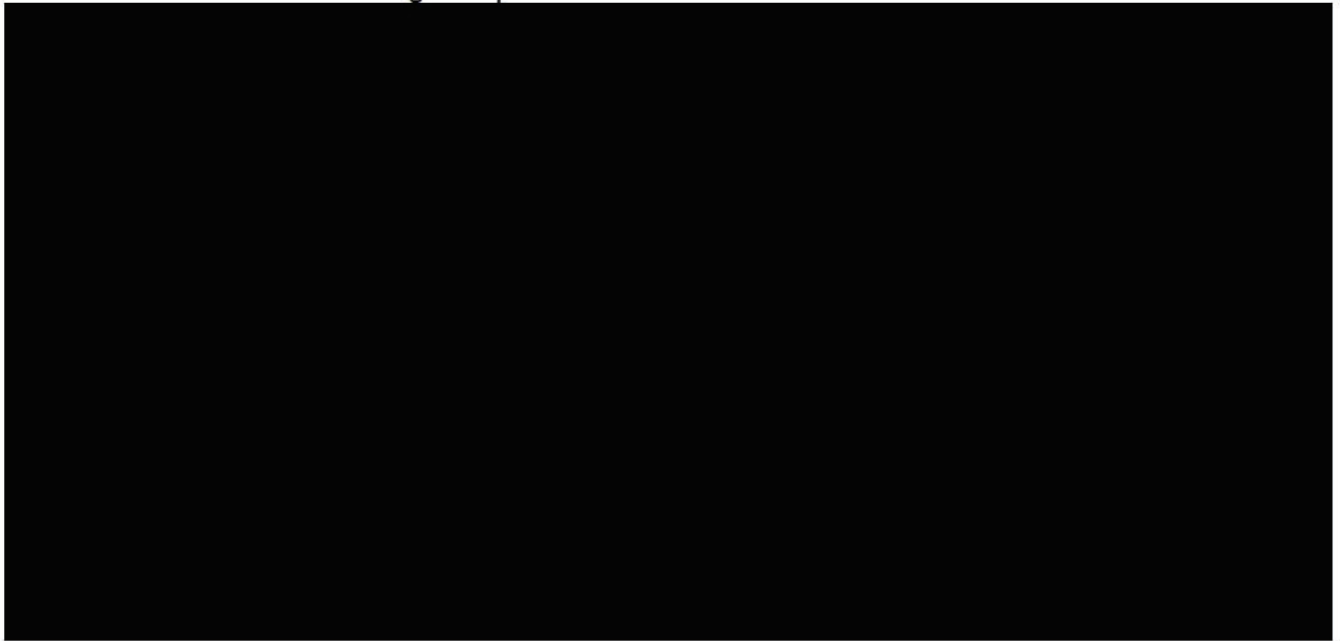
If the Start Date and End Date is not entered, then it generates the list of all the cancelled voters till date.



7. Report is set to PDF by default.
8. Click on View/ print.



9. To schedule the report to run at a specific day and time frame. Click the 'Scheduled Report' check box.
10. Select the desired time form the given options.



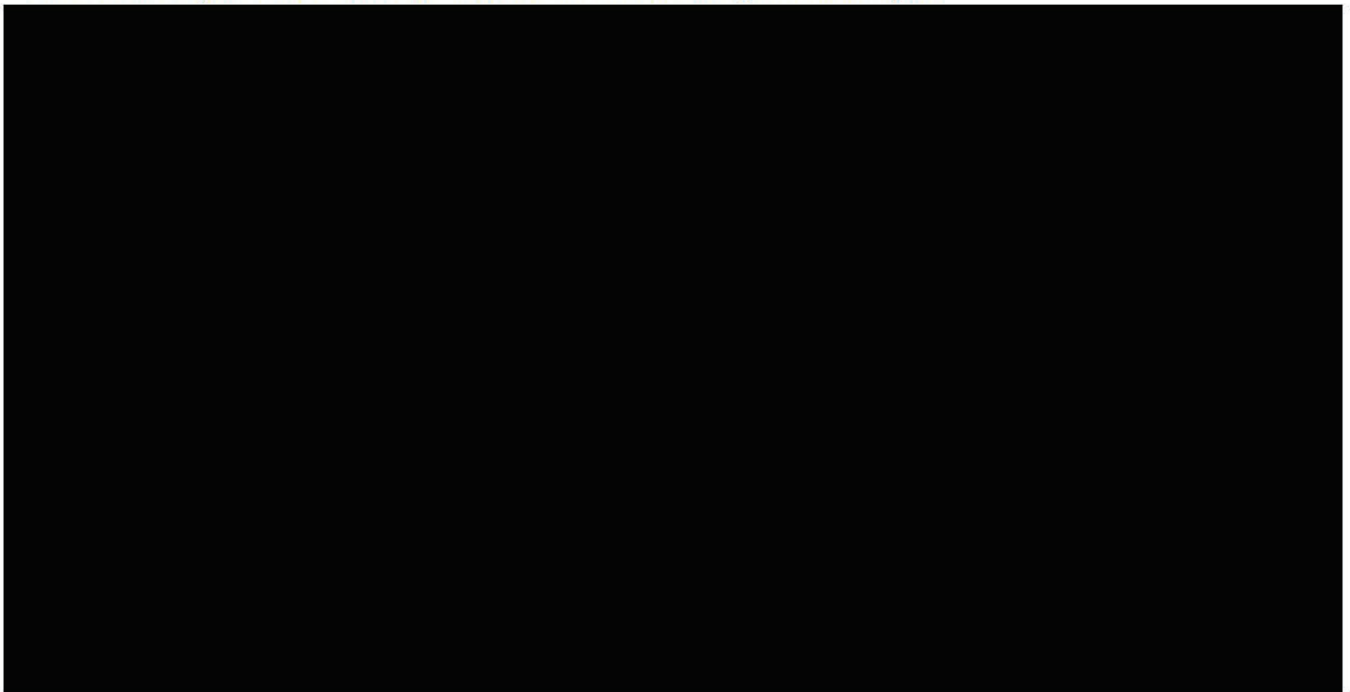
11. Click View/ print report.
12. Report will be processed in Queue.





**Viewing the Cancelled Out of State Report:**

1. In VERIS Homepage, go to the "Schedule & Queued Report" section.
2. Click on the report that has the recent date and time of the generated report.



3. Report is generated.
  - a. When entered Start date and End date.

Locality: 113  
Precinct: ALL  
District: ALL

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF ELECTIONS**  
**Cancellation - Out of State**  
**113 - MADISON COUNTY**

**Start Date: 09/11/2023**  
**End Date: 09/11/2023**

**DMV Surrender Out Of State**

**September 2023**

<b>PCT</b>	<b>Name Address</b>	<b>Registration ID Email Address</b>	<b>Cancel Date</b>	<b>Cancel Type</b>
0001	<b>HANDWORK, MELISSA D.</b> 1540 Meander Run Rd - Locust Dale, VA 22948-4813	145790079	9/11/2023	Active Cancel - DMV Surrender Out Of State

**DMV Surrender Out Of State Total: 1**

b. When Start date and End date is not entered.

Locality: 113  
 Precinct: ALL  
 District: ALL

**COMMONWEALTH OF VIRGINIA  
 DEPARTMENT OF ELECTIONS  
 Cancellation - Out of State  
 113 - MADISON COUNTY**

Start Date: N/A  
 End Date: N/A

**DMV Surrender Out Of State**

**August 2023**

PCT	Name Address	Registration ID Email Address	Cancel Date	Cancel Type
0006	<b>HAINES, MEAGAN A.</b> 111 Florence Ln - Stanardsville, VA 22973-2192	082997316	8/30/2023	Active Cancel - DMV Surrender Out Of State

**September 2023**

PCT	Name Address	Registration ID Email Address	Cancel Date	Cancel Type
0001	<b>HANDWORK, MELISSA D.</b> 1540 Meander Run Rd - Locust Dale, VA 22948-4813	145790079	9/11/2023	Active Cancel - DMV Surrender Out Of State

**DMV Surrender Out Of State Total: 2**

## Processing Scanned Document Images Hopper Records

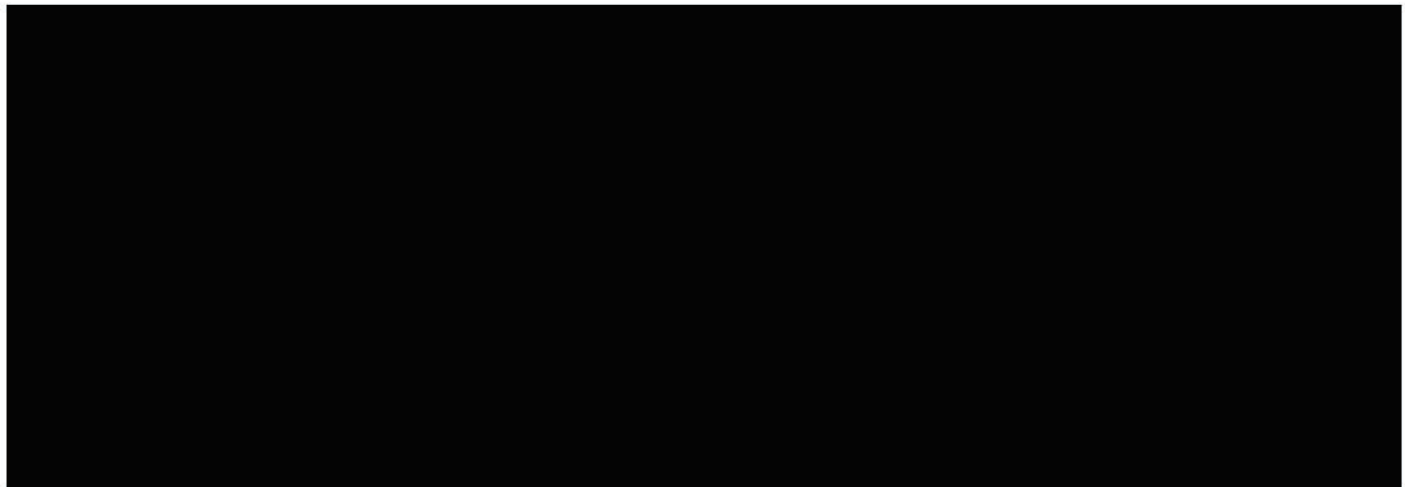


This procedure applies to the following hopper(s):


Scanned Document Images

1. Follow the procedure for **Viewing Voter Matches** to view the Scanned Document Images Hopper.

The Scanned Document Matches page is displayed with the data grid populated.



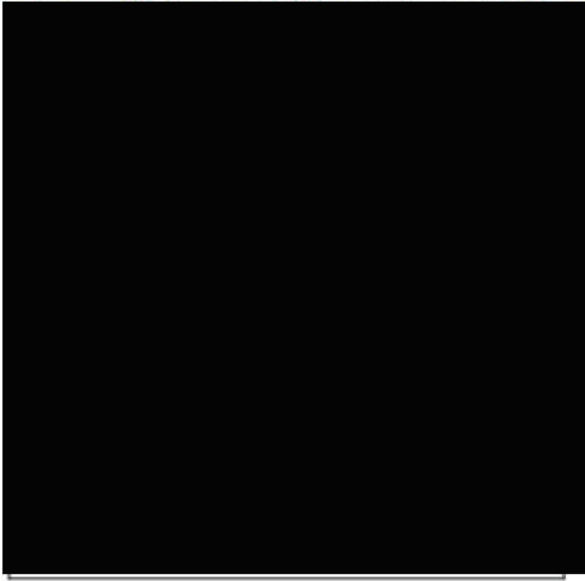
2. Perform one of the following:

<i>To...</i>	<i>Then...</i>
View a scanned document image...	Click the name of the document that you wish to view in the Document Type column.
Delete a scanned document image...	Click the delete icon  that corresponds to the document that you wish to delete.

**Note:** The data grid may be sorted by clicking on the various headers.

**Note:** The data grid may be filtered by User or Batch Name by using the filter drop down menus above the data grid.

### Processing Declared Non-Citizen Hopper Records

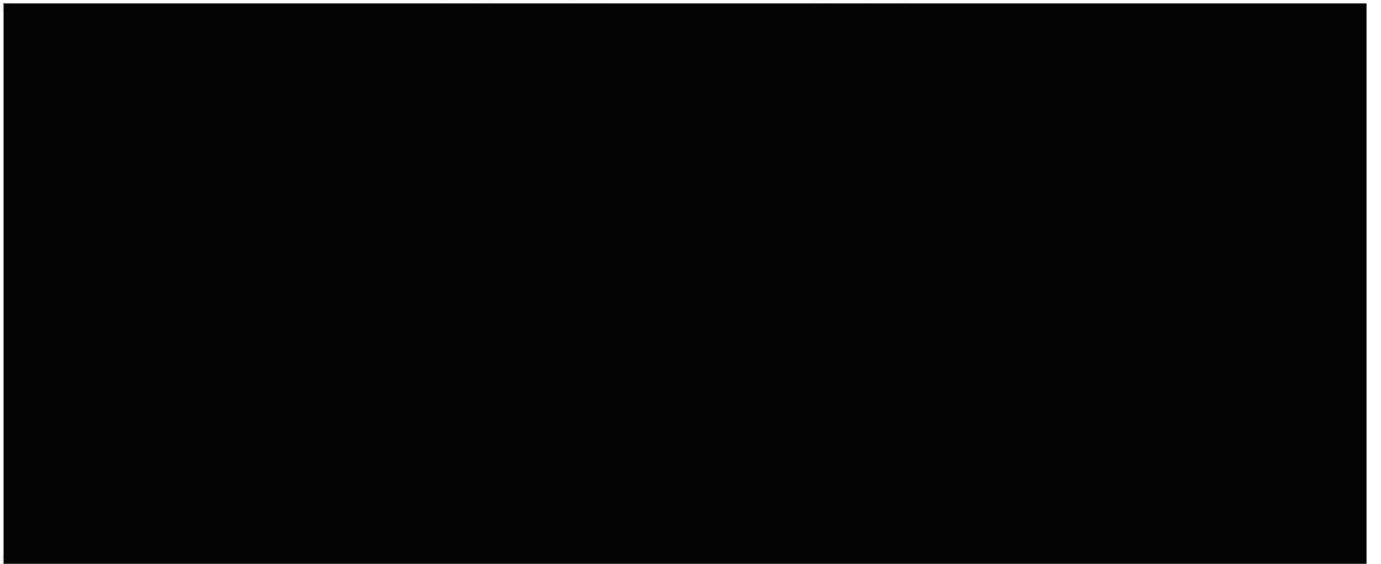


This procedure applies to the following hopper(s):

Declared Non-Citizen

1. Follow the procedure for **Viewing Voter Matches** to view the Declared Non-Citizens Hopper.

The Declared Non-Citizens Matches page is displayed with the data grid populated.



2. Click the link in the % column that corresponds to the match that you wish to process.

The Hopper View page is displayed.



3. Perform one of the following:

<i>If...</i>	<i>Then...</i>						
<p>The existing registration and the declared non-citizen record match and you have not yet notified the voter...</p>	<p>Select <b>Notify Voter</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system retains the record in the Hopper and creates correspondence to notify the voter of his or her non-citizen status.</p>						
<p>The voter confirmed his or her citizenship by completing, signing, and returning the Affirmation of United States Citizenship form within 14 days of notification...</p>	<p>Perform one of the following:</p> <table border="1" data-bbox="792 680 1414 1696"> <thead> <tr> <th data-bbox="792 680 1029 758"><i>If...</i></th> <th data-bbox="1029 680 1414 758"><i>Then...</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="792 758 1029 1226"> <p>The voter returned the barcoded form...</p> </td> <td data-bbox="1029 758 1414 1226"> <p>Scan the barcode on the Affirmation of United States Citizenship form.</p> <p>The system marks the record as citizenship confirmed, removes the record from the Hopper, and generates correspondence history to indicate correspondence was received from the voter.</p> </td> </tr> <tr> <td data-bbox="792 1226 1029 1696"> <p>The voter did not return the barcoded form...</p> </td> <td data-bbox="1029 1226 1414 1696"> <p>Select <b>Citizenship Confirmed</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system removes the record from the Hopper and generates correspondence history to indicate correspondence was received from the voter.</p> </td> </tr> </tbody> </table>	<i>If...</i>	<i>Then...</i>	<p>The voter returned the barcoded form...</p>	<p>Scan the barcode on the Affirmation of United States Citizenship form.</p> <p>The system marks the record as citizenship confirmed, removes the record from the Hopper, and generates correspondence history to indicate correspondence was received from the voter.</p>	<p>The voter did not return the barcoded form...</p>	<p>Select <b>Citizenship Confirmed</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system removes the record from the Hopper and generates correspondence history to indicate correspondence was received from the voter.</p>
<i>If...</i>	<i>Then...</i>						
<p>The voter returned the barcoded form...</p>	<p>Scan the barcode on the Affirmation of United States Citizenship form.</p> <p>The system marks the record as citizenship confirmed, removes the record from the Hopper, and generates correspondence history to indicate correspondence was received from the voter.</p>						
<p>The voter did not return the barcoded form...</p>	<p>Select <b>Citizenship Confirmed</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system removes the record from the Hopper and generates correspondence history to indicate correspondence was received from the voter.</p>						
<p>The existing registration and the declared non-citizen record do not match...</p>	<p>Select <b>Match Rejected</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system removes the record from the Hopper.</p>						



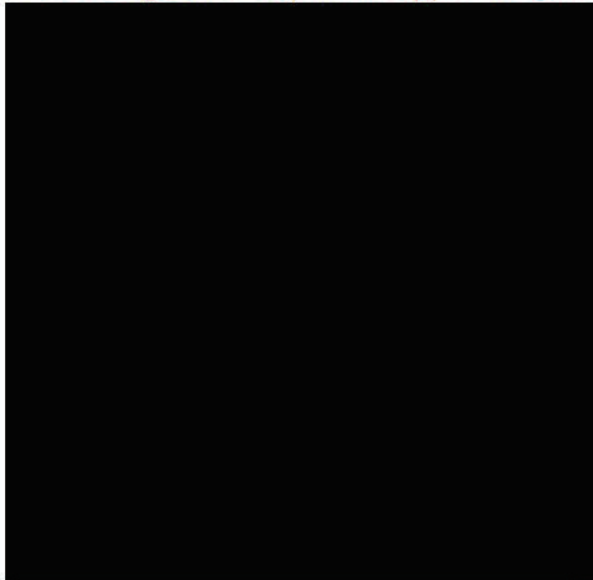
<b>If...</b>	<b>Then...</b>
<p>If you notified the voter of his or her non-citizen status and the voter did not confirm his or her citizenship by completing, signing, and returning the Affirmation of United States Citizenship form within 14 days of notification...</p>	<p>The System will automatically cancel the voter 21 days after notification if the voter has not confirmed citizenship.</p> <p><b>OR</b></p> <p>The voter can be cancelled manually if the you need to cancel the voter immediately after the 14-day window.</p> <p>Select <b>Cancel Voter</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system generates a cancellation notice to notify the voter that their voting privileges have been revoked.</p>
<p>Further research is needed to determine if the Hopper record matches...</p>	<p>Select <b>Research Needed</b> from the <b>Action</b> drop-down list box.</p> <p><i>Note:</i> When you click the <b>Save</b> button, the system removes the declared non-citizen record from the Declared Non-Citizens Hopper and adds it to the Incomplete Registrations Hopper.</p>

4. Enter additional information in the **Comments** field as necessary.
5. Click the **Save** button.

The information is saved to the database.

*Note:* You may click the **Return** button to return to the Hopper View page without saving.

### Processing Batch Reports Hopper Records

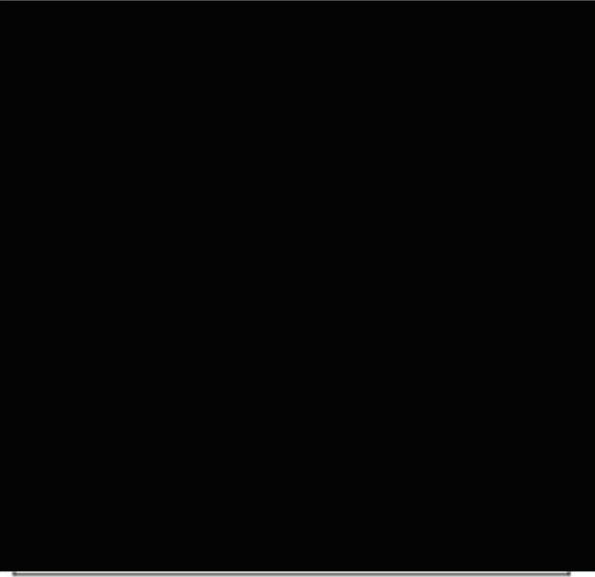


This procedure applies to the following hopper(s):

Batch Reports

The procedure for processing Batch Reports records is described in the **Voter Correspondence Step-by-Step** document.

## Processing SSIS Packages Hopper Records

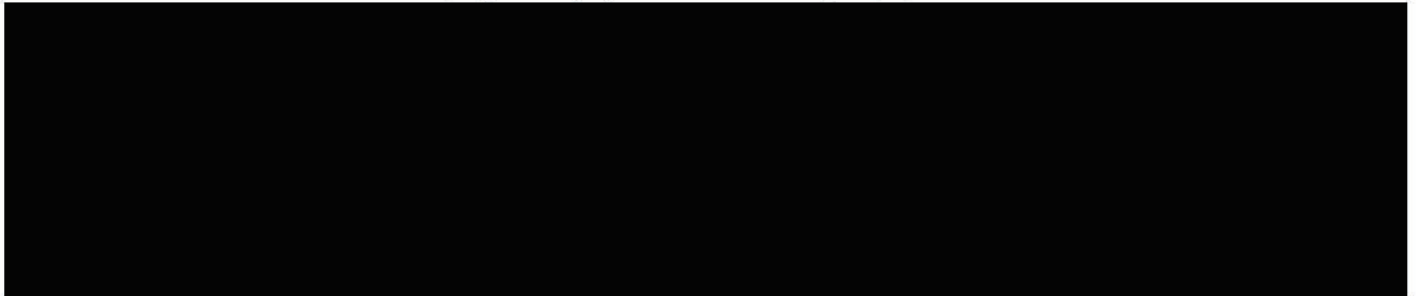


This procedure applies to the following hopper(s):

SSIS Packages

1. Follow the procedure for **Viewing Voter Matches** to view the SSIS Packages Hopper.


The Declared Non-Citizens Matches page is displayed with the data grid populated.



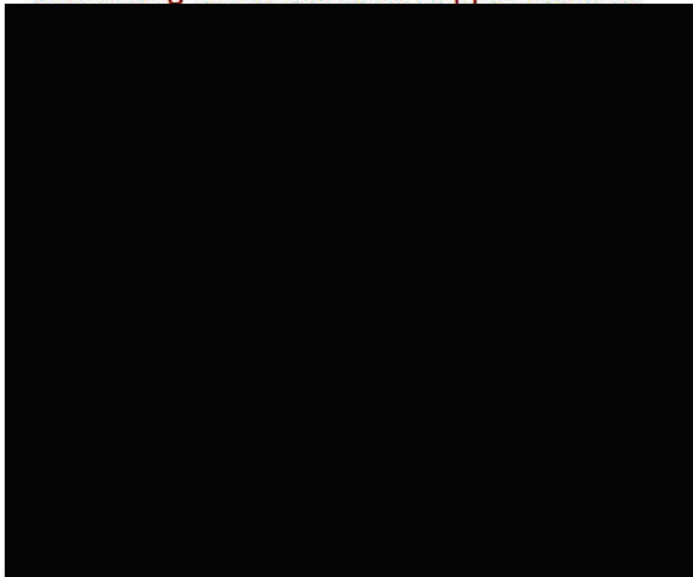
**Note:** The data grid may be sorted by clicking on the various headers.

**Note:** The data grid may be filtered by User, Package, or Status by using the filter drop down menus above the data grid.

2. Perform one of the following:

<i>To...</i>	<i>Then...</i>
View details for a SSIS Package...	Click the name of the SSIS Package that you wish to view in the Package Name column.
Delete a SSIS Package...	Click the delete icon  that corresponds to the SSIS Package that you wish to delete.
Give a SSIS Package a priority status...	Select the checkbox <input checked="" type="checkbox"/> in the PS (Priority Status) column.

### Processing NCOA Matches Hopper Records

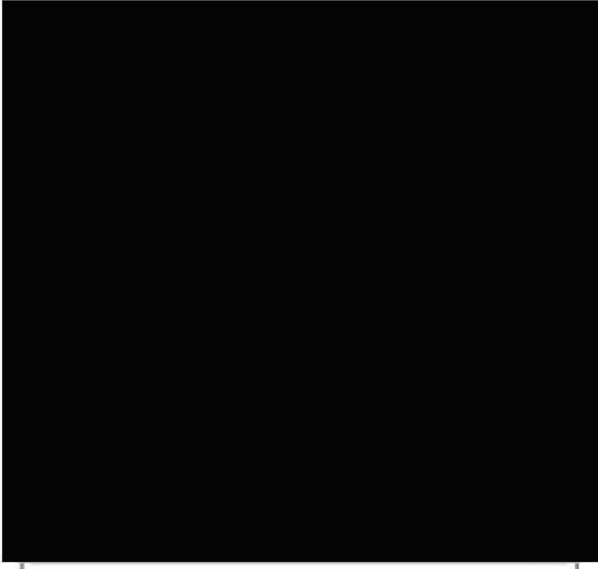


This procedure applies to the following hopper(s):

NCOA Matches

The procedure for processing NCOA Matches records is described in the NCOA Processing Step-by-Step document.

## Processing Notifications Hopper Records

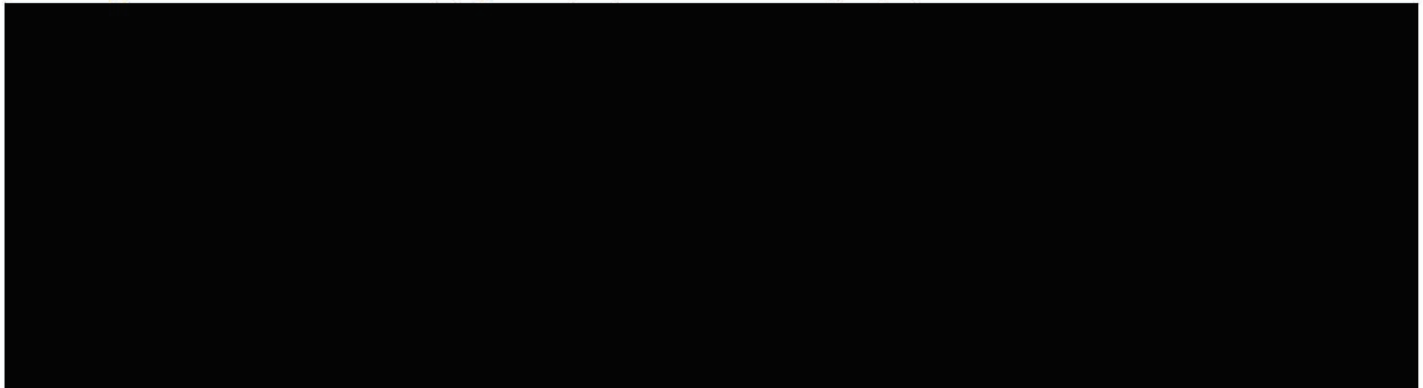


This procedure applies to the following hopper(s):

Notifications

1. Follow the procedure for **Viewing Voter Matches** to view the Notifications Hopper.

The Hopper Notifications Summary page is displayed with the data grid populated.



**Note:** Unread Hopper Notifications appear bolded in the data grid. Notifications that have already been read are not bolded.

**Note:** The data grid may be filtered by using the filter fields above the data grid.

2. Perform one of the following:

<b>To...</b>	<b>Then...</b>
View Hopper Notification Detail...	Click the date of the Hopper Notification that you wish to view in the Date column.
Mark a Hopper Notification as read...	<ol style="list-style-type: none"> <li>1. Select the Hopper Notification that you wish to mark as read by selecting the checkbox <input checked="" type="checkbox"/> that corresponds with it.</li> <li>2. Select <b>Mark as Read</b> from the <b>Select Action</b> drop down menu.</li> <li>3. Click the <b>Update</b> button.</li> </ol>
Mark a Hopper Notification as unread...	<ol style="list-style-type: none"> <li>1. Select the Hopper Notification that you wish to mark as read by selecting the checkbox <input checked="" type="checkbox"/> that corresponds with it.</li> <li>2. Select <b>Mark as Unread</b> from the <b>Select Action</b> drop down menu.</li> <li>3. Click the <b>Update</b> button.</li> </ol>
Delete a Hopper Notification...	<ol style="list-style-type: none"> <li>1. Select the Hopper Notification that you wish to mark as read by selecting the checkbox <input checked="" type="checkbox"/> that corresponds with it.</li> <li>2. Select <b>Delete</b> from the <b>Select Action</b> drop down menu.</li> <li>3. Click the <b>Update</b> button.</li> </ol>
Mark all Hopper Notifications as read...	Click the <b>Mark All Read</b> button.
Send a Hopper Notification to another user or users...	<ol style="list-style-type: none"> <li>1. Click the <b>New Message</b> button.</li> <li>2. Select the user to whom you wish to send a message by clicking them in the <b>Available</b> field.</li> <li>3. Click the <b>Select</b> button to add the user to the <b>Selected</b> field.</li> </ol>

	<p><b>Note:</b> You may remove users from the notification by selecting their username in the Selected field and clicking the Remove button.</p> <ol style="list-style-type: none"><li>Repeat steps 2 and 3 until all desired users are included.</li><li>Enter your message into the <b>Message</b> field.</li><li>Click the <b>Send</b> button.</li></ol> <p><b>Note:</b> Click the Cancel button to return to the Hopper Notifications Summary screen without sending a message.</p>
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**FAIRFAX COUNTY**

Office of Voter Registration

PO Box 10161

Fairfax, VA 22038-8061

E-mail: [voting@fairfaxcounty.gov](mailto:voting@fairfaxcounty.gov)

Phone: 703-222-0776

Website: <http://www.fairfaxcounty.gov/elections>

Fax: 703-324-2205

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**TO:** 

**DATE:** 9/3/2024

**NOTICE OF INTENT TO CANCEL**

We have received information that you may not be a citizen of the United States based on information from a recent Virginia Department of Motor Vehicles (DMV) application or from information received through the U.S. Department of Homeland Security’s (DHS) Systematic Alien Verification for Entitlements (SAVE) Program. If this information is correct, you are not eligible to register to vote.

If the information is incorrect and you are a citizen of the United States, please complete the Affirmation of Citizenship form and return it using the enclosed envelope. If you do not respond within 14 days, you will be removed from the list of registered voters.

If the information is incorrect and you have an account with the DHS U.S. Citizenship and Immigration Services (USCIS), please review your citizenship record for any necessary corrections. To obtain your records you may submit a request online at:

<https://www.uscis.gov/records/request-records-through-the-freedom-of-information-act-or-privacy-act>

If you need a replacement of your Naturalization Certificate or Certificate of Citizenship, or believe the information obtained from the DHS through the SAVE Program did not provide accurate information about your citizenship status and you need to make corrections to your citizenship record, please contact USCIS by using one of the following methods:

1. File a Form N-565 to obtain a replacement of your Naturalization Certificate or Certificate of Citizenship. The Form N-565 and instructions for filing can be found at:  
<http://www.uscis.gov/files/form/n-565.pdf> and  
<https://www.uscis.gov/sites/default/files/document/forms/n-565instr.pdf> .



2. Schedule an appointment for an in-person interview at a local USCIS office to correct your record. You may call the National Customer Service Center at 1-800-375-5283.
3. Submit a request in writing to correct your record to the Freedom of Information Act/Privacy Act (FOIA/PA) Office at the following address:

Privacy Act Amendment  
U.S. Citizenship and Immigration Services  
National Records Center  
FOIA/PA Office  
P.O. Box 648010  
Lee's Summit, MO 64064-8010

If this notice presents any additional questions, please contact the Office of the General Registrar for your county or city.



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ERIC SPICER  
General Registrar  
Fairfax County Office of Elections



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### **Voter Registration Cancellation Notice**

This office has cancelled the voter registration of [REDACTED] (date of birth [REDACTED]). That action was taken on the basis of official notification from the Virginia Department of Elections that you failed to timely respond to a request to affirm your United States Citizenship within the 14 days allowed by the Code of Virginia (§24.2-427). Therefore, this office has stricken your name from the Voter Registration List of ARLINGTON COUNTY.

If you believe the removal of [REDACTED] from the Voter Registration List is incorrect, please contact this office at 703-228-3456.

Declared Non-citizen



*Commonwealth of Virginia  
Office of the Governor*

## *Executive Order*

**NUMBER THIRTY-FIVE (2024)**

### **COMPREHENSIVE ELECTION SECURITY PROTECTING LEGAL VOTERS AND ACCURATE COUNTING**

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order to protect the casting of legal ballots by legally eligible voters in Virginia's elections, including with stringent ballot security, complete and thorough counting machine testing, and best-in-the-nation voter list maintenance.

#### **Importance of Initiative**

In Virginia, we have established a comprehensive approach and continuous improvement process for election security, which is necessary to ensure that individuals cast legal votes. The Virginia model for securing elections has proven itself over the past few years despite the significant expansion of voting days and locations and the lingering effects of the pandemic on state and local governments. Under my Administration, Virginia has made unprecedented strides in improving the accuracy of our voter list including substantial updates for removal of deceased voters and protection against non-citizen registration.

Recent improvements we have made include establishing comprehensive data-sharing agreements with seven states and receiving additional data from 42 states.

We conducted multiple National Change of Address mailings over the past two years and will continue to conduct them. This process identifies individuals who no longer reside in Virginia. The streamlined process for eliminating deceased voters includes accessing a national death record database and conducting a comprehensive audit. This resulted in us removing 79,867 deceased voters in 2023.

Virginia is one of only three states in the nation that require those registering to vote to provide their full 9-digit social security number for registration. Over ninety percent of voters in Virginia submit electronic registration applications online through the Department of Elections (ELECT), which requires a valid Department of Motor Vehicles (DMV) credential, or submit registration applications when conducting transactions with DMV.

DMV requires applicants to submit proof of identity and legal presence for those that do not yet hold a valid Virginia credential. When issuing a credential such as a driver's license, DMV verifies applicants' proof of identity and legal status with the Department Homeland Security Systematic Alien Verification for Entitlements (SAVE) database and the Social Security Administration database.

All data collected by the DMV that identifies non-citizens is shared with ELECT, which uses it to scrub existing voter rolls and remove non-citizens who may have purposefully or accidentally registered to vote. According to data from ELECT, between January 2022 and July 2024, records indicate we removed 6,303 non-citizens from the voter rolls.

Executive Order 31 reinforced the need for timeliness of interagency data. The multi-agency data sharing protocols and standards developed by the working group called for in the Executive Order ensure the accuracy, reliability, privacy, and timeliness of the data used for list maintenance.

The audits we conduct of Virginia's list maintenance practices have not only been effective but have also earned national recognition for robust list maintenance improvements and new initiatives. This recognition is a testament to the fairness, transparency, and legality of Virginia's voting process, which includes:

- 100% paper ballots which provide a physical record of the voter's intent
- Use of paper ballot counting machines, not voting machines
- Strict chain of custody for ballots with daily reconciliation during early voting
- Application required to receive a mail ballot - no mass mailing of ballots
- Counting machines tested prior to every election
- Counting machines not connected to the internet
- Drop boxes under 24/7 monitoring

As we continue to make improvements, the Commonwealth will remain steadfast in its efforts to provide Virginians with the confidence they deserve in their elections. Our election security model is designed to prevent illegal votes and guarantee legal votes are accurately counted. However, security procedures can only be as strong as the state and federal law which governs voting. Further strengthening of Virginia's election security system will rely on strengthening state and federal law.

### **Directive**

Accordingly, pursuant to the authority vested in me as the Chief Executive Officer of the Commonwealth, and pursuant to Article V of the Constitution of Virginia and the laws of the Commonwealth, I hereby direct all relevant Secretariats and Agencies to take the following actions:

### **Certification of Election Security Procedures**

In order to maintain the collaboration and coordination between internal and external parties necessary to maintain the highest level of security, the Commissioner of the Department of

Elections shall certify annually in writing to the Governor that the following election security procedures are in place, including the training of registrars regarding these critical procedures, and that the Commonwealth's system of checks and balances to maintain secure elections is functioning optimally.

1. Ballot Security:

- a. There is a documented chain of custody for paper ballots with daily reconciliation during early voting.
- b. Ballots are tracked through every step of the process.
- c. In precincts on election day and during early voting, ballots cast are reconciled against the number of voters checked in and number of ballots distributed to voters.
- d. Absentee ballots must be requested by a registered voter before being mailed.
- e. Marked absentee ballots may not be counted until the last four digits of a voter's social security number and year of birth provided on the envelope are matched to the voter's record in the statewide voter registration system.
- f. Use of provisional ballots for the Same Day Registration process, which requires that these ballots are not counted in the precinct but go back to the registrar's office for determination of eligibility and adjudication by the Electoral Board.
- g. 100% paper ballots are used in Virginia and are retained by clerks of court for 22 months.

2. Counting Machine Testing and Certification

- a. Virginia does not use "voting machines" just paper ballot counting machines.
- b. No ballot counting machines are connected to the internet.
- c. All counting machines are certified to state and federal standards.
- d. Every piece of equipment utilized in the voting and counting process, such as electronic pollbooks, is tested before use in a polling place.

3. Triple-Check of Election Result Accuracy

- a. Officers of election check election results at the precinct level on election night.
- b. Electoral Boards check elections results at the locality level in the post-election canvass.
- c. Department of Elections staff check elections results at the state level through results review and audits prior to certification.

**Certification of Accuracy of Voter Lists**

The Commissioner of the Department of Elections shall certify in writing to the Governor that the following election security procedures are in place to protect voter lists:

1. Daily Updates to the Voter List to:

- a. Add new eligible voters.
- b. Remove voters who have moved in accordance with federal and state law.
- c. Remove deceased voters.

- d. Remove ineligible voters, including felons and mentally incapacitated.
  - e. Remove individuals who are unable to verify that they are citizens to the Department of Motor Vehicles from the statewide voter registration list, should that individual either intentionally or unintentionally attempt to register to vote, in accordance with federal and state law.
  - f. The Department of Elections compares the list of individuals who have been identified as non-citizens to the list of existing registered voters and then registrars notify any matches of their pending cancellation unless they affirm their citizenship within 14 days.
2. When issuing a credential such as a driver's license, DMV verifies applicants' proof of identity and legal status with the Department Homeland Security Systematic Alien Verification for Entitlements (SAVE) database and the Social Security Administration database.

#### **Referral for False Claims of Citizenship**

The Department of Motor Vehicles shall expedite the interagency data sharing with the Department of Elections of non-citizens by generating a daily file of all non-citizens transactions, including addresses and document numbers.

In accordance with the *Code of Virginia* § 24.2-429, all registrars are required to cancel the registrations of non-citizens who have registered to vote in a local, state, or federal election by falsely claiming that they are a citizen, including the forging of documentation or any other means of improper registration. *Code of Virginia* § 24.2-1019 additionally requires said registrars to immediately notify the Commonwealth's Attorney for their jurisdiction of this alleged unlawful conduct. Additionally, the Office of the Attorney General has full authority to enforce election laws pursuant to *Code of Virginia* § 24.2-104.

#### **Awareness Campaign for Election Security**

The Department of Elections shall encourage and provide information to all general registrars to post or provide to voters directly regarding election-related offenses and their punishments (Title 24.2, Chapter 10 of the *Code of Virginia*), including:

- § 24.2-1000. Intimidation and threats toward election officials; penalty.
- § 24.2-1002.1. Unlawful disclosure or use of social security number or part thereof.
- § 24.2-1004. Illegal voting and registrations.
- § 24.2-1009. Stealing or tampering with ballot containers, voting or registration equipment, software, records or documents.
- § 24.2-1007. Soliciting or accepting bribe to influence or procure vote.
- § 24.2-1016. False statements; penalties.

All state agencies that register individuals to vote shall post the aforementioned information in a conspicuous place or provide it to applicants directly.

Given under my hand and under the Seal of the Commonwealth of Virginia this 7<sup>th</sup> day of August, 2024.



*Glenn Youngkin*  
Glenn Youngkin, Governor

Attest:

*Kelly Gee*  
Kelly Gee, Secretary of the Commonwealth





★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

**Official ELECT Advisory**

**DATE:** October 16, 2024

**SUBJECT:** Updated List Maintenance Calendar and Close of Books - Start of Same Day Registration

**WHY THIS IS NEEDED:** [24.2-420.1](#). Extended time for certain persons to register in person.

A. Notwithstanding the provisions of [§ 24.2-416](#), any person who is qualified to register to vote shall be entitled to register in person up to and including the day of the election at the office of the general registrar in the locality in which such person resides or at the polling place for the precinct in which such person resides.

**HOW THIS AFFECTS YOU:** **Due to the close of books, voters who are not registered will begin using Same Day Registration on October 16, 2024.** It may also be important to note that Early Voting ends on November 2 and all SDR-EV voter registration applications must be entered into VERIS before you prepare your pollbook.

**ACTION ITEMS:**

**1. Updated List Maintenance Calendar**

a. Please review the attached List Maintenance Calendar. **All statutorily required list maintenance records from state agencies, including noncitizens and felons, have been processed to registrars' hoppers as of October 14, 2024.** Per Virginia Code, the regular registration deadline has now passed, as such, ELECT will not process any additional records to your hoppers until after the election, except for weekly death records as required by law. Please check your hoppers to ensure records are timely reviewed so pollbooks are up to date as SDR begins.

**2. SDR Basics**

- a. Please read the [guidance released on FormsWarehouse](#) and in advisories related to Same Day Registration (SDR). Many of your questions are likely answered in those documents.
- b. **SDR is an in-person process only** and cannot be done with a mailed, electronic or third-party voter registration application.
- c. All same-day registrants **may only cast a provisional ballot.** Ballots cast by same-day

registrants cannot be voted on the machine or counted until they have been adjudicated by the Electoral Board. There are no exceptions.

- d. The **five-day wait period does not apply to SDR.**
    - The five-day wait period does not apply to mail ballots regardless of SDR.
    - The 5-day wait period still applies to voters registering before the voter registration deadline on October 15, 2024. Nothing has changed about the 5-day wait period before the close of books.
  - e. All forms of acceptable ID apply for same-day registrants. If a same-day registrant does not have any of those forms of ID, they may sign the [ID Confirmation Statement](#).
  - f. Same-day applications from early voting need to be entered into VERIS before you pull your pollbook so voters show up appropriately. It is advisable to enter these throughout early voting so records are updated promptly.
  - g. **SDR happens in the precinct or early voting site in which the voter's current address makes them eligible.**
  - h. The deadline to enter same-day applications received on Election Day *was extended this year to **Monday, November 11, 2024 at 5:00 PM.***
    - Please bear in mind that Monday, November 11 is a federal holiday. This **deadline will not move** to the subsequent Tuesday to accommodate for the holiday. **If your office will be closed on that Monday, you should have same-day applications processed by Sunday, November 10, 2024.**
    - The Duplicate Report will be emailed to general registrars on **Tuesday, November 12, 2024.**
3. For more detailed information regarding SDR, you may choose to view a recording of the SDR Webinar and associated materials on the internal Learning Management System (LMS).

**CRITICAL DIRECTIVE: This SDR training webinar was limited to those with VERIS/2FA OKTA access. DO NOT share or forward the recording to those without VERIS permission as the presentation contains proprietary information and sharing would be a violation of our privacy policy.**

- i. **To watch the recording:** Log in to ELECT's Learning Management System (LMS), go to "My

Courses," and choose "Same Day Registration Webinar (8-31-22)."

- ii. **To view SDR related documents and materials:** <https://www.elections.virginia.gov/formwarehouse/election-management/>

**CONTACT:** **For technical matters:** Submit a JIRA ticket to the System Support team for all VERIS-related issues

**For Election Admin:** [EA@elections.virginia.gov](mailto:EA@elections.virginia.gov)

**For all other matters:**

Region 1 (Tidewater) Viki Mainwaring 804-593-2274 [victoria.mainwaring@elections.virginia.gov](mailto:victoria.mainwaring@elections.virginia.gov)

Region 2 (South Central) Viki Mainwaring 804-593-2274 [victoria.mainwaring@elections.virginia.gov](mailto:victoria.mainwaring@elections.virginia.gov)

Region 3 (North Central) Monique Semple 804-774-4694 [monique.semple@elections.virginia.gov](mailto:monique.semple@elections.virginia.gov)


Region 4 (South Western) Tanya Pruett 804-864-8931 [tanya.pruett@elections.virginia.gov](mailto:tanya.pruett@elections.virginia.gov)

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**ADVISORY NUMBER:**

 **COMM-765** - LM Calendar and SDR **PUBLISH ADVISORY**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

VIRGINIA COALITION FOR	:	
IMMIGRANT RIGHTS,	:	
	:	
et al.,	:	
	:	
Plaintiffs,	:	
	:	Civil Action
v.	:	No. 1:24-cv-01778-PTG-WBP
	:	
SUSAN BEALS,	:	
(In Her Official Capacity As	:	October 25, 2024
Virginia Commissioner of	:	10:00 a.m.
Elections),	:	
	:	
et al.,	:	
	:	
Defendants.	:	
	:	
.....	:	

TRANSCRIPT OF MOTION HEARING PROCEEDINGS  
BEFORE THE HONORABLE PATRICIA TOLLIVER GILES,  
UNITED STATES DISTRICT COURT JUDGE

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APPEARANCES:

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1                                    FRIDAY MORNING SESSION, OCTOBER 25, 2024

2            (9:31 a.m.)

3                    THE COURTROOM CLERK: Court calls *Virginia Coalition for*  
4 *Immigrant Rights, et al. versus Susan Beals, et al.*, Case Number  
5 1:24-cv-1778.

6                    May I have appearances, please, first for the Plaintiffs.

7                    MR. FERGUSON: Brent Ferguson for the Private Plaintiffs.

8                    MR. GORDON: Steve Gordon on behalf of the United States.

9                    MS. JHAVERI: Sejal Jhaveri on behalf of the United  
10 States.

11                    MR. DANJUMA: Orion Danjuma on behalf of the Private  
12 Plaintiffs.

13                    MR. POWERS: John Powers on behalf of the Private  
14 Plaintiffs.

15                    MS. PORTS: Shanna Ports on behalf of the Private  
16 Plaintiffs.

17                    MS. LANG: Danielle Lang on behalf of the Private  
18 Plaintiffs.

19                    MR. POWERS: John on behalf of the United States.

20                    THE COURT: Good morning to all of you.

21                    MR. SANFORD: Good morning, Your Honor. Thomas Sanford on  
22 behalf of all the Defendants.

23                    THE COURT: And -- yeah.

24                    MR. MASTERMAN: Oh. Good morning. Joe Masterman on  
25 behalf of all the Defendants as well.

1 MR. LARSON: Good morning, Your Honor. Brad Larson, also  
2 on behalf of all the Defendants.

3 THE COURT: And good morning to all of you.

4 And good morning to everyone in the courtroom as well.

5 Is there anything for me to take up before I issue my  
6 ruling?

7 MR. FERGUSON: Nothing from us, Your Honor.

8 MR. SANFORD: Nothing from the Defendants, Your Honor.  
9 Thank you.

10 THE COURT: Thank you. So, this matter is before the  
11 Court on Plaintiff Virginia Coalition For Immigrant Rights,  
12 et al.'s motion for preliminary injunction, and the United  
13 States' motion for preliminary injunction.

14 As I said before, I consolidated these cases, and I set  
15 this expedited briefing schedule. And the parties have complied  
16 with that. And I thank you for the quality of your briefing, as  
17 well as your advocacy in this courtroom yesterday.

18 The Private Plaintiffs and the Department of Justice seek  
19 to enjoin the Defendants from continuing the program because they  
20 allege it violates the 90-day provision under the NVRA.

21 Private Plaintiffs also challenge the program, even the  
22 portion that occurred outside the 90-day provision as being  
23 nonuniform and discriminatory.

24 And I want to emphasize that my ruling today only speaks  
25 to the 90-day provision. The evidence that I have considered



1 consists of the documents, records, that were attached to the  
2 parties' respective briefs, as well as what I received yesterday.

3 The only item that I did not consider, which I indicated  
4 yesterday, was the declaration of Dr. Michael McDonald.

5 I also considered the flash drive that I received at the  
6 end of the day that you all filed under seal and what has been  
7 marked for the record as Plaintiffs' Exhibit FF.

8 So now the Court makes the following Findings of Facts and  
9 Conclusions of Law. First, with respect to standing, there is no  
10 question in this case that the United States has standing, and  
11 only one Plaintiff must have standing for us to proceed.

12 But I also want to -- I also find that our Private  
13 Plaintiffs have established organizational standing under *Havens*  
14 *Realty* as well as *Hippocratic Medicine*.

15 An organization has standing to sue on its own behalf when  
16 the defendant's actions interfere with the organization's core  
17 business activities. But an organization cannot spend its way  
18 into standing by spending money and resources only, but it's only  
19 when the actions have impaired an organization's ability to carry  
20 out its mission, and that consequently drains the organization's  
21 resources that an organization can establish injury in fact.

22 And I find that for our Private Plaintiffs, at least --  
23 and I'm making only the findings today that are necessary,  
24 because I understand that there will probably be a motion to  
25 dismiss in this case, and so I'm only making certain findings

1 today.

2 But with respect to Plaintiff African Communities  
3 Together, they identify voter access and participation as central  
4 to its mission, and they did that in their declaration, which is  
5 attached at Docket Number 26-25 and paragraph 5.

6 And they also indicated that they had to divert resources  
7 away from supporting core activities to address the impact of the  
8 Executive Order 35.

9 Therefore, the Defendants' program of canceling the  
10 registration of eligible voters who Defendants claimed were  
11 noncitizens interfered with African Communities Together's core  
12 mission. African Communities Together is also a member of the  
13 Virginia Coalition, the lead Plaintiff, and as I said, these are  
14 the only findings that I need to make to establish standing for  
15 our organizational -- our Private Plaintiffs today.

16 But even still, I'd like to put on the record that it is  
17 likely that they are going to be able to establish associational  
18 standing as well because they have identified members of their  
19 organizations who would have standing to sue. Therefore, Private  
20 Plaintiffs have established standing to bring this suit.

21 Now, the statute -- the Virginia law at issue in this case  
22 are that it partly provides some of the framework today, is the  
23 Section 24.2-427. And it provides that the general registrar  
24 shall cancel the registrations of all persons known by him not to  
25 be U.S. citizens by reasons of report from the DMV or from the

1 Department of Elections based on information received from SAVE,  
2 which is the Systematic Alien Verification For Entitlements  
3 Program.

4 The statute directs that general registrars are to mail  
5 notices of cancellation to all persons before canceling their  
6 registration. It further provides that the person will submit an  
7 affirmation of their -- it further provides that either the  
8 person will submit an affirmation of their citizenship within 14  
9 days, or they would have their registration canceled.

10 Now, Virginia Code Section 410.1 required the DMV to  
11 provide these reports about these transactions on a monthly  
12 basis.

13 Section 24.2-404 of the Virginia Code provided that the  
14 Department of Elections was also -- required the general  
15 registrars to delete the names of any voter from the record of  
16 registered voters who they or the DMV identified as purported  
17 noncitizens. The Board of Elections institutes the procedures to  
18 ensure the requirements of 24.2-404 are fulfilled.

19 Now, the following are my findings that are pertinent to  
20 this case. On August 7th of 2024, Governor Glenn Youngkin issued  
21 Executive Order 35. It announced that county boards must  
22 continue to cancel the registrations of those voters the  
23 Department of Elections identified as noncitizens. Specifically,  
24 Executive Order 35 directed the Department of Motor Vehicles to  
25 expedite the interagency data sharing with the Department of

1 Elections of noncitizens by generating a daily file of all  
2 noncitizen transactions. So instead of these reports being done  
3 monthly, based on the executive order that was issued on August  
4 7th, it required daily, daily data sharing and daily generation  
5 of these removals.

6 The DMV was to share with the Department of Elections the  
7 daily files of all people who were unable to verify that they  
8 were citizens or -- and for the voter list to be updated daily  
9 with the removal of individuals who are unable to verify that  
10 they are citizens.

11 ELECT is headed by Commissioner Susan Beals. And by  
12 letter dated September 19th of 2024, Commissioner Beals confirmed  
13 to the governor that the DMV now sends daily updates of  
14 noncitizen data to ELECT.

15 Now, the program's process of removing purported citizens  
16 from voter rolls starts at the DMV. The DMV aggregates the data  
17 of individuals who have indicated in some way or another  
18 noncitizenship status through a variety of forms. This evidence  
19 came from the declaration of Ms. Ashley Coles, which is attached  
20 at 92-1; the declaration of Steven Koski, which is attached at  
21 document number 92-2; as well as ELECT'S standing operating  
22 procedure; voter registration list maintenance, which is found at  
23 Docket Number 92-8; and ELECT'S handbook list maintenance, which  
24 is found at Docket Number 100-2.

25 The process continues in this way: The data is then

1 aggregated and transferred to ELECT. This is done  
2 electronically. ELECT then uses an electronic matching process  
3 to determine whether the purported noncitizens from the DMV data  
4 are the same people on the voter rolls. ELECT then looks to see  
5 where any person who has been identified as a purported  
6 noncitizen lives and is registered and then sends that person's  
7 information to the appropriate general registrar.

8 The general registrars then check to see if the purported  
9 noncitizen from the ELECT data are the same as the people on  
10 their voter rolls. If the registrars find a match, the  
11 registrars then send an automated created notice called a Notice  
12 of Intent to Cancel to the people that they have identified as  
13 noncitizens who appear on their voter rolls. The Notice of  
14 Intent to Cancel is created in the VERIS system, and, as I said,  
15 it's automated.

16 The registrars then mail the automatic notices. The  
17 notices direct the person that they have 14 days to respond and  
18 complete and attach attestation of citizenship. If a person  
19 completes it, the attestation goes back to the appropriate  
20 registrar. If the person doesn't respond, the registrar can  
21 manually cancel that person's registration after 14 days. The  
22 person's registration is automatically canceled in the VERIS  
23 system after 21 days.

24 Now, Defendants yesterday conceded that between August 7th  
25 of 2024, which is when that executive order was issued, and

1 October 21st of 2024, over 1,600 individuals have been removed  
2 from the voter rolls as a result of this process. In Loudoun  
3 County, 98 people had their registrations canceled since August  
4 of 2024. That was contained in the Electoral Board meeting  
5 minutes found at Docket Number 9-13.

6 Incidentally, in August there had only been eight people  
7 canceled, but there were 90 alone in September.

8 According to the general registrar's reports from Fairfax  
9 County, 28 voter registrations were canceled from August 1st  
10 through August 31st. And these are just samples of times when  
11 there were voters that were canceled, and it reflects that the  
12 increase in those voters once -- or the increase in cancellations  
13 once the executive order was issued.

14 The Federal Rules of Civil Procedure authorize courts to  
15 issue preliminary injunctive relief, but it is an extraordinary  
16 relief, and it should be issued sparingly.

17 Now, Defendants argue that the Court should apply the  
18 standard articulated by Justice Kavanaugh in his concurrence in  
19 *Merrill versus Milligan*, and that lays out factors for overcoming  
20 the *Purcell* doctrine.

21 This Court finds that that standard is not appropriate  
22 here in this case. This case involves challenges on the  
23 violations of the quiet provision of the NVRA, which by its very  
24 nature, these types of challenges are always going to be close to  
25 elections.

1           This ruling only focuses on the request for injunctive  
2 relief related to the violation of the quiet provision, and not  
3 Private Plaintiffs' challenge to the program being nonuniform and  
4 discriminatory.

5           This Court also looked at the *Pierce* case which Defendants  
6 cited and relied on in its support for why I should apply the  
7 standard for *Merrill*, and the Court finds that is -- would be  
8 inappropriate in this place at this time because, for one, the  
9 *Pierce* case did not provide a challenge under the Quiet  
10 Provision.

11           Two, the Court was not announcing a new standard. It was  
12 simply accepting the analysis, what the Plaintiff had put forth  
13 and the framework that that Plaintiff had put forth.

14           And third, this is not a case where the Plaintiffs are  
15 seeking to enjoin the enforcement of Virginia's election laws.  
16 Instead, these Plaintiffs seek to enforce federal law, and what  
17 they argue is a continuing violation of federal law. Therefore,  
18 this Court has applied the factors -- the *Winter* factors, and  
19 those are simply whether or not Plaintiffs have demonstrated that  
20 they are likely to succeed on the merits of their claim, that  
21 they are likely to suffer irreparable harm without an injunction,  
22 that the balance of equities tilts in their favor, and issuing an  
23 injunction is in the public interest.

24           Now, the authority of the District Court to issue a  
25 preliminary injunction, especially a mandatory one, should be

1 sparingly exercised. Mandatory preliminary injunctions do not  
2 preserve the status quo, and normally should be granted only in  
3 those circumstances when exigencies of the situation demand such  
4 relief. So, it must be necessary to protect against irreparable  
5 harm in deteriorating circumstances created by the defendant, and  
6 it must preserve the Court's ability to enter ultimate relief on  
7 the merits of the same kind.

8 To obtain a mandatory preliminary injunction, Plaintiffs  
9 must show a likelihood of success by clear and convincing  
10 evidence. So, I'll start with the first factor, the likelihood  
11 of success on the merits. I do find that Plaintiffs have shown  
12 by clear and convincing evidence that they are substantially  
13 likely to succeed on the merits of their claim; that the  
14 Defendants' process violates the 90-day provision. The 90-day  
15 provision provides that a state shall complete not later than 90  
16 days prior to the date of a primary or general election for  
17 federal office, any program, the purpose of which is to  
18 systematically remove the names of ineligible voters from the  
19 official list of eligible voters.

20 It further instructs that this provision should not be  
21 construed to preclude the removal of names of people who have  
22 been convicted of felonies, who have died, who have been declared  
23 mentally incapacitated, or who have been removed from the  
24 official list of voters, or who have requested to be removed from  
25 the official list of voters, or by correction of the registration



1 records. Those are the only exceptions.

2 So here, in order to show the violation of the 90-day  
3 provisions, the Plaintiffs had to show that the Defendants'  
4 process is a program whose purpose is to systematically remove  
5 the names of ineligible voters which was continued or not  
6 completed later than 90 days before the general election.

7 Starting with whether or not this is a program. The  
8 Defendants don't appear to challenge whether or not this process  
9 is considered a program, but even if they did, the Court would  
10 conclude that it is a program. A program is simply a plan or  
11 system under which action may be taken toward a goal, and clearly  
12 that applies here.

13 In the case of *Project Vote/Voting for America versus*  
14 *Long*, it's a Fourth Circuit case, the Fourth Circuit found that  
15 the definition of program within the meaning of the NVRA was a  
16 process of review carried out in the service of a specified end,  
17 and that's clearly what we have here.

18 The Defendants' process was comparing lists of names and  
19 flagging registrations for cancellation, and so that clearly  
20 constitutes a program.

21 The second issue is whether or not this is systematic, and  
22 the Court finds that it most certainly is. The plain meaning of  
23 systematic is "methodical in procedure or plan; of, relating to,  
24 or concerned with classification." That's from the  
25 Merriam-Webster dictionary.

1           Now, in *Arcia*, which is not binding on this Court because  
2 it's an 11th Circuit case, that court concluded that a procedure  
3 which involved a mass computerized data matching process to  
4 compare the rolls with other state and federal databases, and  
5 then following with mailing of notices, qualified as systematic,  
6 and I agree with that. This program involved just matching data  
7 fields. Under the executive order, the DMV was to furnish on a  
8 daily basis -- it was already doing it on a monthly basis under  
9 the statute, but under the executive order it was on a daily  
10 basis, and it was preparing a list of the people who had declared  
11 that they were not citizens on a motor voter transaction or  
12 another DMV transaction. And the fields or the information that  
13 the DMV was collecting was -- and later providing to ELECT was  
14 the name, social security number, date of birth, sex, DMV  
15 customer number, and transaction date. This is from the *Coles*  
16 declaration.

17           When ELECT received this information from the DMV, it  
18 then, quote-unquote, "electronically compares." That is the  
19 quote from Ms. Coles' declaration. It is an electronic  
20 comparison between the information provided by the DMV and with  
21 the voter information in ELECT's statewide Voter Registration  
22 System.

23           And according to ELECT's Voter Registration List Manual,  
24 Standard Operating Procedure, which is found at Docket Number  
25 9-5, there could be a match when any one of the following sets of

1 criteria -- in any of these criteria it could establish a match  
2 if it was the full social security number, if it was the first  
3 and last name, or if it was the last name and date of birth, not  
4 all three. At a minimum, just any one of those could provide the  
5 match.

6 ELECT then would send the information to the registrar.  
7 The registrar would simply confirm that the person identified is  
8 the same individual listed on their voter rolls, and then send  
9 the cancellation. This process is clearly methodical, and it's  
10 concerned with classification. Neither ELECT nor the local  
11 registrars performed additional research or review to confirm  
12 whether the flagged voter was a citizen or not.

13 This process closely resembles that which in the *Arcia*  
14 case was found as being systematic, because it left no room for  
15 individualized inquiry, and that is the same here.

16 Although the Defendants argue that this process was  
17 somehow individualized because it started with an individual  
18 transaction at the DMV, which prompted the reports, and then,  
19 because there were individual letters sent out at the end, that  
20 does not make this an individualized inquiry. It is simply  
21 checking data fields, matching in mass.

22 The Defendants conceded in argument yesterday that the  
23 processes for matching the records by ELECT and the registrars is  
24 limited to identification purposes. A registrar may only confirm  
25 that the person identified by ELECT matches the record on the

1 registrar's rolls.

2           And I don't think it can be ignored that even though  
3 Defendants say that these individuals started these -- the  
4 process by having a transaction at the DMV, the Defendants  
5 started this process by having the list compiled, and it  
6 continued with the process through the electronic matching  
7 period. Therefore, this is systematic.

8           Third, the Court finds that the purpose of the Defendants'  
9 process was to remove ineligible voters from the voter rolls  
10 because it is triggered by a data point indicating that the  
11 registered voter may be a noncitizen.

12           Now, the Defendants appear to concede that the program's  
13 purpose is to remove ineligible voters from the voter rolls, and  
14 that's clearly stated in the executive order at page 2.

15           Now, the NVRA is clearly premised on the idea that  
16 citizenship is an eligibility requirement. Thus, any program  
17 designed to remove alleged noncitizens from the voter rolls is  
18 necessarily removing ineligible voters from the voter rolls.

19           Now, the Defendants argue that they believe their process  
20 is permissible under the 90-day provision because the words  
21 "ineligible voter" and "registrant "appear -- as they appear in  
22 other parts of the statute, suggest that a person must have been  
23 eligible to vote at the time they're registered in order for the  
24 90-day provision to apply. This reading is inconsistent with  
25 Congress' intent. It cannot be that Congress would carve out

1 exceptions for those individuals who are felons or who were  
2 declared mentally incapacitated and then failed to include the  
3 exception for noncitizens. And it seems less likely that  
4 Congress would nevertheless permit that exception when the  
5 process used to remove the names involved no individualized  
6 inquiry.

7 I also -- the Defendants also argued that the 90-day  
8 provision is limited to registers -- or this argument was also  
9 rejected by the Court in *Arcia*, and I'm rejecting it here for the  
10 same reason. It simply -- the Defendants are arguing that this  
11 statute applies to people who are determined that they are  
12 ineligible later. But the same can be said of people who are  
13 felons or are mentally incapacitated. They could have had those  
14 same characterizations or characteristics at the time that they  
15 applied for their registration, so that cannot have been what  
16 Congress intended.

17 To be clear, the Commonwealth and the Board of Elections  
18 have the authority -- I want to say that again -- the  
19 Commonwealth and the Board of Elections have the authority to  
20 investigate and remove noncitizens from the registration rolls,  
21 but it must -- when it is in the 90-day provision, it must be  
22 done on an individualized basis.

23 Defendants argue that this process is merely compliant  
24 with, if not required by, Virginia law. But the Supreme Court  
25 has already determined that Congress intended the NVRA to preempt

1 conflicting state law.

2 Now, I'm not saying that the Virginia statute contains a  
3 provision, because it would be conflicting if it contained a  
4 provision that says this process could continue within that  
5 90-day period before election. It doesn't say that. But even if  
6 it did, it would be preempted.

7 And lastly, the Court finds that the Defendants' process  
8 continued well into the 90 days before election. As stated  
9 above, on August 7th of 2024, Governor Youngkin announced via his  
10 executive order this program. August 7 is exactly 90 days before  
11 the 2024 federal election. And in that order he directed the DMV  
12 to expedite the interagency data sharing with daily files of all  
13 noncitizen transactions.

14 And in order for the voter list to be updated daily with  
15 the removal of individuals who are unable to verify that they are  
16 citizens. And Commissioner Beals certified that this was, in  
17 fact, happening.

18 So this Court finds by clear and convincing evidence that  
19 Plaintiffs have shown that the Defendants' list maintenance  
20 program is a program whose purpose is to systematically remove  
21 ineligible voters from the voter rolls subject to the 90-day  
22 provision. Thus, the Court concludes that the Plaintiffs have  
23 demonstrated a substantial likelihood of success on the merits.

24 This brings me to irreparable harm. Now, the United  
25 States argues that the government is always harmed by violations

1 arising under federal law. The Defendants counter that the harm  
2 here is not irreparable because there are other options, such as  
3 filling out a provisional ballot on election day, and this would  
4 cure the harm to eligible voters who have had their registrations  
5 canceled, but this is not sufficient.

6 Defendants' program has curtailed the right of eligible  
7 voters to cast their ballots in the same way as all other  
8 eligible voters. And even if provisional ballots are ultimately  
9 counted, the fact that they are counted as provisional renders  
10 them suspect and subject to being discounted in a way that they  
11 would not otherwise be if the voters did not have their  
12 registrations canceled in the first instance.

13 Further, the Fourth Circuit has said other -- in other  
14 voting rights cases, that even if some voting mechanisms are  
15 denied but do not absolutely preclude participations, voters may  
16 still be irreparably harmed. That was in the *League of Women*  
17 *Voters of North Carolina*. It's found at 769 F.3d 20 -- 224.

18 Defendants yesterday conceded that eligible voters who  
19 have had their registrations canceled can no longer vote absentee  
20 or by mail if they had planned to. Thus, the evidence in this  
21 case shows that Virginians who had been removed from the rolls  
22 pursuant to this program will suffer irreparable harm without an  
23 injunction.

24 The balance of equities. Defendants have argued that  
25 unwinding the acts of the Department of Elections of removing

1 these individuals from the rolls since August 7th would be  
2 costly, particularly because of their impending election date,  
3 and that that could also create some confusion amongst election  
4 officials.

5 Defendants argue that the United States and Private  
6 Plaintiffs unreasonably delayed in bringing this case. This  
7 Court disagrees.

8 Based on the evidence in this case, the Private Plaintiffs  
9 engaged in communications and discussions with the Department of  
10 Elections beginning in August of 2024 and continuing through  
11 September of 2024. They sought records that they were not  
12 provided. The United States also engaged in discussions with the  
13 Department of Elections. And I agree with them. When you are  
14 coming to court and seeking an injunction, you must do your due  
15 diligence. And from the evidence that they have attached to  
16 their motions, it shows just that, the gathering of evidence.  
17 So, under those circumstances, I do not find that this has been  
18 unreasonable delay.

19 Moreover, it cannot be overlooked that it is the  
20 Defendants who started down this road with what I find is a clear  
21 violation of the 90-day Quiet Provision. It was not happenstance  
22 that this executive order intensifying these efforts was  
23 announced exactly on the 90th day.

24 Plaintiffs argue that the inequities greatly favor them as  
25 the right to vote as an eligible citizen is a fundamental right,



1 and it is.

2 The department and the Private Plaintiffs have also  
3 presented evidence demonstrating that eligible citizens, eligible  
4 citizens, natural born and naturalized, have had their  
5 registrations canceled and were unaware that this was even so.  
6 That is supported by Exhibits BB, Exhibits CC, Exhibits DD, as  
7 well as the exhibits that were attached to the government's reply  
8 brief.

9 I will also add that the evidence submitted by the Private  
10 Plaintiffs was provided to this Court, part of that evidence,  
11 just a day or two or less than a -- less than two days of when  
12 they received it from the Defendants in this case. And they have  
13 already identified these citizens. How many more are there?

14 Plaintiffs' declarations also appear to suggest that at  
15 least some voters who realized too late that their registrations  
16 had been canceled may still experience barriers in reregistering  
17 or voting on election day. That is in Exhibit DD at paragraphs  
18 5, 12 through 14.

19 Further, the relevant inequity at issue is against the  
20 citizens of the Commonwealth whose registrations were canceled  
21 due to the removal program in violation of the NVRA's 90-day  
22 provision. At this juncture, this Court does not know that all  
23 the persons who were removed pursuant to the Defendants' program  
24 were noncitizens. Repeatedly, it was said yesterday that these  
25 were noncitizens who have been removed. The evidence does not

1 show that. What the evidence shows is that these are the  
2 individuals who failed to return a form and attest that they were  
3 citizens. But at some point -- and also, at some point they may  
4 have said on a form at the DMV that they were not citizens. It's  
5 not clear if that was intentional or not, if it was a mistake or  
6 not, but later they attested that they were citizens, so they had  
7 already attested before, but that when they were contacted during  
8 the course of this program, at that point they did not send in an  
9 attestation. So, at best, what is before the Court is that there  
10 was conflicting information.

11 So, neither the Court nor the parties, either side, as we  
12 sit in this courtroom, know that those removed from those rolls  
13 were, in fact, noncitizens. And as I noted, the Plaintiffs have  
14 already provided some evidence that revealed that citizens have  
15 been removed from those rolls.

16 So I want these parties, these individuals, to be  
17 referenced appropriately. These are individuals who have failed  
18 to send in attestations in response to the cancellation notices  
19 that they received. That is who these people are.

20 Thus, restoring the right to vote of all eligible voters  
21 affected by this program strongly outweighs the burden to  
22 Defendants of restoring those names to the rolls. Thus, the  
23 Court finds that the balance of equities favors Plaintiff.

24 And finally, the Court considers the public interest. It  
25 is undoubtedly in the public interest for ineligible voters to be

1 removed from voter rolls. It is also in the public interest for  
2 states to comply with federal law, particularly those laws which  
3 protect the right to vote, a fundamental right. This Court's  
4 order does not prevent the Commonwealth from removing registrants  
5 who they determine are ineligible through an individualized  
6 inquiry. Thus, the Commonwealth can still investigate and remove  
7 citizens. The NVRA also does not prevent states from using  
8 systematic processes to remove voters from voter rolls  
9 altogether. It only prevents them from doing so within 90 days  
10 before a federal election. And, as discussed above, this process  
11 has resulted in eligible voters having their registrations  
12 flagged for cancellation.

13 Plaintiffs have also provided evidence that people are  
14 continuing to be removed from these rolls, because from that  
15 snapshot that was provided on October 21st, we know that people  
16 were removed after the October 14th date that the program was  
17 supposed to cease. But the reason that the people are still  
18 being removed is because notices are sent out, and then if the  
19 response is not received, they are then canceled.

20 So, these violations are continuing. Given all of these  
21 facts, the Court finds that the public interest favors the  
22 Plaintiffs, and so, for these reasons, the Court will grant in  
23 part and deny in part Plaintiffs' motions for preliminary  
24 injunction.

25 Now, in terms of the substance of this order. Before I do

1 that, I will say this, that both Plaintiffs attached proposed  
2 injunction orders to their filings, and I have reviewed those.

3 I'm enjoining the Defendants from continuing any  
4 systematic program intended to remove the names of ineligible  
5 voters from the voter registration list.

6 I am also directing Defendants to restore the voter  
7 registration of the registrants that were canceled pursuant to  
8 the Defendants' programs after August 7th of 2024, and those  
9 individuals are identified in Plaintiffs' Exhibit EE. It would  
10 be those individuals that need to be restored.

11 Within five days of this order, the Defendants are to  
12 issue guidance to county registrars in every local jurisdiction  
13 in Virginia to immediately restore the voter registration records  
14 of registrants that were removed pursuant to the program during  
15 this, and by the program I mean -- every time I say "program,"  
16 I'm talking about from August 7th.

17 They're to restore those, except for -- so long as those  
18 individuals did not subsequently submit a voter removal request  
19 or are not subject to removal by reason of criminal conviction or  
20 mental capacity as provided by state law or by reason of death or  
21 the registrant. That also applies to the restoration. Okay?

22 Additionally, Defendants are ordered to make all  
23 reasonable and practical efforts to educate local officials, poll  
24 workers, and the general public on the Defendants' program, the  
25 restoration of the voter registrations of impacted voters, and

1 the ability of impacted voters to cast a regular ballot without  
2 submitting supplemental paperwork.

3 And within five days of this order, the Defendants shall  
4 submit to this Court under seal a report detailing every voter  
5 registration canceled on or after August 8th to the present, and  
6 I will include specific details in my order.

7 As I said, the Defendants' authority or ability to cancel  
8 the voter registration of noncitizens through individualized  
9 review is not limited by this order, nor does the order limit the  
10 Defendants' authority or ability to investigate noncitizens who  
11 register to vote or who vote in Virginia's election. The  
12 preliminary injunction applies only to Defendants' systematic  
13 program.

14 It is further ordered that the motions for preliminary  
15 injunction are denied in all other respects, and that this  
16 injunction will expire on the day after the 2024 general  
17 election.

18 Is there anything further?

19 MR. FERGUSON: Brent Ferguson for the Private Plaintiffs,  
20 Your Honor. Could I just ask one question to clarify? I know  
21 you -- the order included a requirement for --

22 THE COURT: I didn't read my order verbatim. I did not  
23 read it verbatim.

24 MR. FERGUSON: You did not?

25 THE COURT: I did not, so there may be some specifics in

1 the order.

2 MR. FERGUSON: Okay.

3 THE COURT: Okay.

4 MR. FERGUSON: My question, the part about educating local  
5 officials to make people aware that they've been restored, does  
6 that include contacting affected voters here, the 1,600, with a  
7 follow-up letter?

8 THE COURT: Yes.

9 MR. FERGUSON: Okay. Thank you. And I believe that was  
10 within five days. Could we clarify that that's five days  
11 meaning --

12 THE COURT: Yeah.

13 MR. FERGUSON: -- Wednesday?

14 THE COURT: Yes. The -- and thank you for bringing it up  
15 because I meant to include that. I don't think I read that from  
16 my order, but within five days of this order, the Defendants must  
17 provide a remedial mailing to each registrant informing them that  
18 their voter registration has been restored, explaining that they  
19 may cast their regular ballot on election day in the same manner  
20 as any other eligible voter, explaining that the registrant may  
21 cast a regular ballot through any other method, including  
22 requesting and voting through an absentee ballot by mail made  
23 available to eligible voters in the same manner as other eligible  
24 voters. And I know that there's an issue there because of the  
25 deadline, but in order to put them in the same position, that has

1 to be complied with. And advising them that the registration --  
2 that the cancellation of their registration pursuant to this  
3 removal program after August 7th does not in and of itself  
4 establish that they are ineligible voters or subject to -- or  
5 ineligible to vote or subject to criminal prosecution or any  
6 other penalty for registering to vote or for voting. And also  
7 advising that registrants who are not U.S. citizens, that they  
8 remain ineligible to cast a ballot in Virginia elections.

9 MR. FERGUSON: Thank you, Your Honor. Could I ask one  
10 other follow-up question? That same part of the order you read  
11 originally about educating the public, does that include, I  
12 suppose, some form of correcting the record from the Statewide  
13 Defendants, meaning on their website basically correcting  
14 information and then issuing a Press release about the current  
15 state of the program and that these voters are now eligible?

16 THE COURT: Well, I don't want to -- what are you  
17 proposing, in terms of -- and I'm going to give Mr. Sanford --

18 MR. FERGUSON: Sure.

19 THE COURT: -- an opportunity to be heard on this.

20 MR. FERGUSON: Your Honor, I think what -- in addition to  
21 individually contacting voters, what's important here is that the  
22 executive order was issued very publicly and made the whole state  
23 aware of this -- the whole Commonwealth aware of this program.  
24 And I think there is some risk, if the -- if the correction of  
25 the record only goes to individual people by mail, the people

1 will be unaware that they have been restored. And so I think  
2 what we'd ask for is reasonable efforts to let all Virginians  
3 know that this program has ended and that these people are  
4 restored. And I'd point to the order in Alabama from last week  
5 that required the Secretary of State there to issue a corrective  
6 Press release. Here, it could be similar in response to the EO,  
7 and then just make sure that any information on the Board of  
8 Elections' website, the Department of Elections' website is  
9 corrected about the program.

10 THE COURT: Mr. Sanford, did you need to respond? I do  
11 find a Press release is appropriate. I didn't read my  
12 preliminary injunction order verbatim. It did include a  
13 directive to provide a Press release. I do think that that is  
14 important.

15 MR. SANFORD: So, you are ordering a Press release, Your  
16 Honor?

17 THE COURT: Yes, I am.

18 MR. SANFORD: The one point I would like to take up is the  
19 discussion of the absentee ballot. And with the deadline of  
20 requesting an absentee ballot being today, I just wanted to  
21 clarify what Your Honor is ordering the Commonwealth Defendants  
22 to do with respect to -- are we changing the process of absentee  
23 ballots? I mean, I think that kind of creates the risk of  
24 confusion and chaos in the electoral system if we have different  
25 rules around the absentee ballots, rather than the voting process



1 that's still in place otherwise, how Your Honor envisions ELECT  
2 implementing a different approach to absentee ballots just for  
3 this subset of individuals.

4 THE COURT: I'm going to let Mr. Ferguson respond about  
5 the absentee ballots.

6 MR. FERGUSON: Your Honor, I believe Ms. Jhaveri might  
7 have something to say, too.

8 We would suggest, Your Honor, an extension of that  
9 deadline, at least until these affected voters are able to  
10 understand they're back on the rolls and --

11 THE COURT: Because we are ten days away, so if I'm giving  
12 five days, I see their point in some way, and I do see their  
13 point, because if there are five days to provide the notice by  
14 mailing, and today is already the 25th. Then, in terms of even  
15 getting the ballot out to them, I don't understand --

16 MR. FERGUSON: -- Your Honor, I --

17 THE COURT: -- the practicality of how that would happen.

18 MR. FERGUSON: I know the State will make representations  
19 about what's possible. I would -- Your Honor, with respect to  
20 the five days, I do think that, given the -- give the fact that  
21 the election is so close, and given the fact that these mailings,  
22 you know, are a systematic process from the counties, I believe  
23 it's reasonable to ask the counties to send that follow-up letter  
24 more quickly.

25 And then there's also the fact that -- I believe under

1 this order there will be a Press release, and certainly I believe  
2 media that will be informing people that they're back on the  
3 rolls, so I think some kind of extension of the --

4 THE COURT: I think that may lead to -- let me hear from,  
5 I think -- yes.

6 MS. JHAVERI: Your Honor, on the absentee ballot point, I  
7 wanted to offer that Virginia -- and Mr. Sanford can speak to  
8 this more. Virginia does have a process for emergency absentee  
9 ballots that continues past the official date, and maybe there is  
10 a way. And the United States is certainly open to working with  
11 the Commonwealth to figure out a method. We want to make sure  
12 that voters have access to the voting methods that they should,  
13 but also not to cause confusion or burden on the Commonwealth.

14 So, I raise that as a potential way. My understanding --  
15 and certainly Mr. Sanford can correct me -- is those requests can  
16 be made after the close of the -- today, which is the request to  
17 mail the absentee ballot. I do think the process is a little bit  
18 different. It typically involves a person authorized to request  
19 the ballot. So, if I'm the voter, it's typically for someone  
20 who's, like, in the hospital or something and unable to request  
21 it. I believe the language says "or other emergency," and this  
22 might -- again, Mr. Sanford can speak to this more -- be a way to  
23 kind of reach some sort of compromise on this issue, because we  
24 certainly understand the Commonwealth's concern about confusion  
25 on a deadline like this. But we, again, also think it's

1 important to make sure these voters are given opportunities to  
2 vote.

3 THE COURT: Is that an option, Mr. Sanford? That does  
4 seem --

5 MR. SANFORD: Your Honor, I'm not particularly familiar  
6 with the emergency program that my friends on the other side are  
7 referring to, so I'm not sure if that would work.

8 My concern is also with the timeline of when -- if  
9 absentee ballots are going out and kind of the normal course of  
10 absentee ballots going out and the time it takes for someone to  
11 return those kind of ballots coming in after the deadline for  
12 submitting ballots and receiving ballots, such that we'd end up  
13 with kind of -- you know, we sort of put people into a trap of  
14 their ballot coming in too late in the process to be counted.

15 And I think like we're kind of just setting up a risk of  
16 creating confusion rather than, you know, not just confusion and  
17 burden on Defendants but on the people that we're sending these  
18 to, rather than having a clear direction to use to go and vote at  
19 a polling location where it's kind of -- we can have far more  
20 certainty around the relief that the Court is ordering actually  
21 being effective.

22 MS. JHAVERI: Your Honor, if I might add one thing. My  
23 understanding of these emergency procedures is that the ballots  
24 are still required to be returned along the same timeline that  
25 would be required for any ballot under Virginia law. And I

1 don't -- the United States would not ask for a change to that.

2 THE COURT: It does create the potential that it may not  
3 be returned in time. You know, if the letters are going out --  
4 because they're not going to be multiple letters, you know, and  
5 if the letters are going out -- I mean, we are, what, 10 days, 11  
6 days?

7 MS. JHAVERI: Yes, Your Honor. And I would just second  
8 Mr. Ferguson's suggestion that potentially these letters could go  
9 out earlier. The -- this is an automated -- it should be an  
10 automated process. We have the list. The county -- I think the  
11 state will have to direct -- sort of break down the list into  
12 which local registrars need to send which letters, but it seems  
13 like something that is largely automated.

14 THE COURT: It's Friday. Okay?

15 MS. JHAVERI: Yes, Your Honor.

16 THE COURT: It's Friday; it's not Monday, and these are  
17 government employees. Not to say we don't work weekends, because  
18 we do, but just the practicality of things. It's -- I want -- I  
19 don't want to set us all up for failure. Okay?

20 MS. JHAVERI: Yes, Your Honor.

21 THE COURT: And so we may not be able to achieve  
22 everything that we would want --

23 MS. JHAVERI: Yes, Your Honor.

24 THE COURT: -- in this order or in terms of restoring  
25 everything because of just the timetable of this. That is just

1 the reality of things.

2 MS. JHAVERI: Yes, Your Honor. Understood. May I ask  
3 just one other clarification question?

4 THE COURT: Yes.

5 MS. JHAVERI: Earlier when you spoke about the voters  
6 affected, you referenced the Exhibit -- I think it's EE. I just  
7 think we may need some clarification that there have been no  
8 other voters removed since then, because if there have been, they  
9 could be added to the same list and sent the letters at the same  
10 timeline.

11 THE COURT: Okay. Are there more after that October 21st  
12 or --

13 MR. SANFORD: I'm not aware, Your Honor, but we could have  
14 ELECT run the same process that they used to generate that list  
15 and use --

16 THE COURT: Okay.

17 MR. SANFORD: -- I guess what we'd call like an updated  
18 EE --

19 THE COURT: Okay.

20 MR. SANFORD: -- in the event that there is an update to  
21 it or not. And, obviously, we would need to de-duplicate that  
22 list --

23 THE COURT: -- Okay --

24 MR. SANFORD: -- so it represents the -- since it's not --  
25 I -- Your Honor is not directing us to send multiple letters to

1 the same individual, correct?

2 THE COURT: No.

3 MR. FERGUSON: Okay.

4 THE COURT: Absolutely not.

5 MR. FERGUSON: So, Your Honor, may I add one more point on  
6 that, back on the absentee issue? One other at least partial  
7 solution, I believe, is that Virginia, I believe, maintains a  
8 permanent absentee voter list.

9 And so to the extent that anyone on this list of 1600 was  
10 removed from -- you know, both from the voter rolls and this  
11 list, I think it would be appropriate just to order that those  
12 individuals be automatically mailed an absentee ballot along with  
13 the other ones.

14 THE COURT: Okay. So you want them to do a search to  
15 cross-reference the list that was run against the list of  
16 permanent people who are on the voter absentee rolls?

17 MR. FERGUSON: I think the -- yes.

18 THE COURT: I'm going to deny that. Okay?

19 MR. FERGUSON: Okay.

20 THE COURT: Because we have got to come up with a process.  
21 We are 11 days away, and we've got to come up with something that  
22 will work, okay, to get these 1,600 people back on these rolls.  
23 Okay?

24 MR. FERGUSON: Understood.

25 THE COURT: I appreciate you all trying. And if I didn't

1 say it earlier, I want to commend you all on your work in this  
2 case, both sides, all sides, especially on this timeframe.

3 Now, I'm going to -- the order with respect -- and I  
4 didn't from the bench -- my order will be more detailed, let me  
5 be clear. Okay?

6 I am going to -- with respect to the absentee voter issue,  
7 I'm going to -- I'm going to go ahead and sign my order that I'm  
8 going to issue. I'm going to leave the absentee voter portion  
9 out of this order now. If I need to supplement my order, I will.  
10 I will give you all the opportunity to see if you can come up  
11 with something. I don't know if you will, because this timeline  
12 is really -- what I don't want is to create some confusion  
13 between some people who think that the absentee voter -- you  
14 know, like people who -- other people who aren't even involved in  
15 this process all of a sudden think that they have a -- could  
16 somehow have access to this and confuse them. We don't want  
17 confusion. Okay? We want our voters back on the rolls, but we  
18 don't want confusion. Okay. Anything else?

19 MR. FERGUSON: Nothing else from me, Your Honor.

20 THE COURT: Mr. Sanford?

21 MR. SANFORD: Your Honor, just two remaining points.  
22 First, I do just want to confirm that, with respect to putting --  
23 I guess we'll call it the updated EE exhibit, all of those voters  
24 back onto the rolls -- is -- you know, even if the Commonwealth  
25 believes and its understanding is that those individuals are not

1 citizens, the order is to place them back onto the rolls?

2 THE COURT: See, you keep going back to this Commonwealth  
3 believes that they are noncitizens. Are you saying that the  
4 Commonwealth did not receive the attestation?

5 MR. SANFORD: Yes, but if the Commonwealth believes, based  
6 on the process, that --

7 THE COURT: I'm not dealing with beliefs. I'm dealing  
8 with evidence. Okay? And what I said was the evidence that I  
9 have on my record is these were individuals -- the Commonwealth  
10 can remove ineligible voters from their rolls. They can remove  
11 ineligible voters who are noncitizens, but they must do so after  
12 an individualized inquiry and determination and not systematic  
13 removal. Understood?

14 MR. SANFORD: Yes. And so it applies to all of --

15 THE COURT: You may have a seat. Thank you.

16 MR. SANFORD: Your Honor, one other point. And I  
17 understand that I'll be likely charging uphill on this, but just  
18 to make the record on it, the Commonwealth Defendants would move,  
19 Your Honor, respectfully, to stay your order on the preliminary  
20 injunction pending our appeal, and I, you know, understand that  
21 Your Honor likely sees this request in a different light than we  
22 do, but we believe that the Fourth Circuit will view these issues  
23 differently, and we believe that we've kind of satisfied the  
24 requirements for a stay pending appeal based on our view that we  
25 will likely succeed on the merits with the Fourth Circuit that



1 the NVRA does not apply to the removal of noncitizens from the  
2 voter rolls.

3 And we also believe that the irreparable harm requirement  
4 for such a stay is met because enjoining a state from enforcing  
5 its duly enacted laws is an irreparable harm to the state, and we  
6 don't believe that the opposing parties will be substantially  
7 injured by a stay in this case because of the issues addressed  
8 yesterday at the hearing where we believe they aren't irreparably  
9 injured by this process at all.

10 And finally, we believe that the public interest is in  
11 favor of a stay due to Virginia's obligation to protect the  
12 integrity of its elections.

13 So we respectfully ask that you move to -- or we  
14 respectfully ask that you stay the preliminary -- the order on  
15 the preliminary injunction pending our forthcoming appeal.

16 But I understand that Your Honor likely has a view on this  
17 motion, but to preserve it for the record, I do need to make it,  
18 Your Honor.

19 THE COURT: I understand your making that motion, and I am  
20 going to deny it for all of the reasons I've previously stated  
21 for why this injunction is necessary. And if I were to grant  
22 this stay, it would deny them the relief. These -- because  
23 this -- this goes to the voters. Okay?

24 MR. SANFORD: Thank you, Your Honor.

25 THE COURT: Anything else?

(No response.)

THE COURT: I'll be issuing my order. We're adjourned.

(Proceedings adjourned at 10:39 a.m.)

C E R T I F I C A T E

I, Scott L. Wallace, RDR-CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Scott L. Wallace

10/25/24

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**Scott L. Wallace, RDR, CRR**

**Date**

**Official Court Reporter**