

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

#### PREAMBLE

- 1. Sections Affected**

R2-12-601	New Section
R2-12-602	New Section
R2-12-603	New Section
R2-12-604	New Section
R2-12-605	New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**

Authorizing statute: A.R.S. § 16-112  
Implementing statute: A.R.S. § 16-112
- 3. The effective date of the rules:**

March 29, 2002
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 5530, December 21, 2001  
Notice of Proposed Rulemaking: 7 A.A.R. 5725, December 21, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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- 6. An explanation of the rule, including the agency's reasons for initiating the rules:**

Citizens are realizing the value of e-government in Arizona. By visiting ServiceArizona at the Arizona Department of Transportation web site, citizens can obtain a duplicate driver license, change their address, renew their vehicle registration, or order a personalized plate. These services are shining examples of e-government putting the citizen in control of the action -- self-service government.

In 1982, the Arizona Motor-Voter Act was passed, recognizing the similarities between the driver license application process and the voter registration process. The Act called for Arizona transportation authorities to work with voter registration authorities to develop a common exchange of information to better serve the citizenry. The two processes contain similar information structure, yet they remain two distinct paper filings. Currently, the Motor-Voter integration is simply the passage of a paper trail from the Motor Vehicle Division (MVD) to the county recorder. Consequently, there has been limited success in exchanging information, integrating the two application processes or getting information to the correct authorities in a timely manner.

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Citizens are already aware of the benefits of electronic interaction with MVD, as evidenced by the fact that about 20 percent of all vehicle registrations take place online. These rules create a framework to enhance the objectives set out by the Motor-Voter Act. The reason for these rules is to facilitate the transfer of information from the MVD to the county recorders through the Secretary of State acting as a transient host for delivery. These rules prescribe the process by which applicants may register to vote and transfer address changes electronically, through the Internet.

This rule uses the authority granted in A.R.S. § 16-112 to establish the framework and to define acceptance for electronic signatures on voter registration forms. The voter registration process is a wet signature based process because the validation of an election is completed by comparing wet signatures on ballots, or signature rosters, to the voter registration rolls of the county recorder. This electronic voter registration information framework uses the principle of unique identity within the MVD identification register to create an electronic signature of the person. That unique identification authorizes MVD to release the voter registration information, including a digitized image of the person's wet signature, to the county recorder for voter registration. This allows for the facilitation of electronic information exchange without degrading the integrity of the registration and election processes.

**7. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. Summary of the economic, small business, and consumer impact:**

It is anticipated that the scope of these rules will cover about 70 percent of the paperwork filed for voter registration. Once the electronic information flow is in place, physical processes will be examined and altered to achieve even greater efficiency for the state.

This project is essential to proving effectiveness, efficiency, and functionality in a paperless government. There are more than 2.2 million registered voters in the state. Maintenance of those records is time consuming and a paper exchange overload. Streamlining the flow of information from the Department of Transportation agency to the county recorder will be creating efficiency for both agencies in the transport of the information alone. In addition, with the growing population and the expected rise in voter registration, this project will help avoid future costs. The present information exchange process is a long trail of paperwork that burdens both MVD and the county recorder, without significant improvements since this law's inception. It is clear that the current method could be made substantially more efficient and effective with an electronic version of the form and process.

The rules will have a minimal impact on the Secretary of State's Office.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Not applicable

**11. A summary of the principal comments and the agency responses to them:**

Office of the Secretary of State did not receive any comments on the proposed rules. In addition to public comment period, a meeting was held with the county recorders to explain all questions about the process.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Meeting with county recorders to discuss rule implementation was held January 22, 2002.

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule?**

No

**15. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 12. OFFICE OF THE SECRETARY OF STATE**

**ARTICLE 6. ~~RESERVED~~ ELECTRONIC VOTER REGISTRATION**

Section

R2-12-601. Definitions

R2-12-602. Retention of Electronic Voter Registration Forms

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- R2-12-603. Electronic Signatures for Electronic Voter Registration Forms  
R2-12-604. Acceptable Transmitters of Electronic Voter Registration Forms  
R2-12-605. Transfer of Electronic Voter Registration information

**ARTICLE 6. ~~RESERVED~~ ELECTRONIC VOTER REGISTRATION**

**R2-12-601. Definitions**

In addition to the definitions provided in A.R.S. §§ 16-101, 16-111, 16-140, and 16-153, unless the context provides otherwise, the following definitions apply to this Article:

1. "Destination county recorder" means the county recorder to which the registrant's voter registration application is delivered.
2. "Electronic signature" is defined in A.R.S. § 41-132.
3. "Electronic voter registration form" means the capture and acknowledgment of statements on behalf of the registrant during the electronic voter registration process. Its contents are substantively the information prescribed by A.R.S. § 16-152.
4. "Electronic voter registration process" means the sequence of events between a registrant and a transmitter beginning with identification of the registrant up to and including submitting the registration information.
5. "Electronic voter registration, statement, or other document" means all data entered into a registration, statement, or other document that is electronically prepared and transmitted to a county recorder.
6. "Identification register" means the index of information containing registrant information maintained by a transmitter.
7. "Registrant" means a person attempting to register to vote.
8. "Transmitter" means an agency who is part of the chain of transmission of an electronic voter registration, statement, or other document from a registrant to a destination county recorder even though the agency did not receive the transmitted registration, statement, or other document directly from the registrant.
9. "Wet signature" means a physically generated signature of a person that can be compared to other physically generated signatures of the person for verification of authenticity.

**R2-12-602. Retention of Electronic Voter Registration Forms**

- A. For each electronic voter registration transmitted to the Secretary of State, the Secretary of State shall keep the documents listed in A.R.S. § 16-152(B) until the next General Election or the date a county recorder confirms the registration is received, whichever is later.
- B. For each electronic voter registration transmitted to a county recorder, the county recorder shall keep the documents listed in A.R.S. § 16-152(A) as specified by A.R.S. § 16-162.

**R2-12-603. Electronic Signatures for Electronic Voter Registration Forms**

- A. To accept the terms of the electronic voter registration process, a registrant shall electronically sign the electronic voter registration form. If a registrant uses an electronic signature, the registrant shall:
  1. Declare, under penalty of perjury, that the electronic voter registration form is true, correct, and complete to the best of the registrant's knowledge; and
  2. Signify to the transmitter during the electronic voter registration process to release the electronic voter registration form to the destination county recorder.
- B. An electronic signature for use on an electronic voter registration form shall be a separate acknowledgement statement authorizing the transmitter to transmit the information to the destination county recorder.
- C. A registrant may use an electronic signature on an electronic voter registration form if the following conditions are true:
  1. The registrant is active in the transmitter's identification register.
  2. The registrant is uniquely identified by name, physical address, and date of birth in the transmitter's identification register.
  3. A digitized image of the registrant's wet signature exists with the transmitter for the purpose of transmitting with the electronic voter registration form to the destination county recorder.
- D. If a registrant does not electronically sign the registrant's electronic voter registration form, the registrant may complete the voter registration process on paper.

**R2-12-604. Acceptable Transmitters of Electronic Voter Registration Forms**

- A. Only the following government agencies may be transmitters:
  1. The Department of Transportation,
  2. The county recorders, and
  3. The Secretary of State.
- B. Each transmitter shall enter into an agreement with the Secretary of State to transmit electronic voter registration information before transmitting electronic voter registration information.

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**R2-12-605. Transfer of Electronic Voter Registration Information**

- A.** The Secretary of State, or its duly authorized third party, shall receive an electronic voter registration information from an accepted transmitter and deliver it to a destination county recorder.
- B.** A county recorder may:
1. Receive electronic voter registration information updates through the Secretary of State;
  2. Receive paper renditions of the electronic voter registration information on a registration form prescribed by the Secretary of State;
  3. Receive digitized images of the electronic voter registration information in a registration form prescribed by the Secretary of State.
- C.** Information collected to update a registrant's voter registration information may be transmitted electronically if the following conditions are true:
1. A registrant provides information to a transmitter for updating the registrant's name or address in the identification register pursuant to A.R.S. § 16-112(B)(4).
  2. The information specified in subsection (C)(1) is received from a transmitter specified in R2-12-604(A).
  3. The information specified in subsection (C)(1) is transmitted in an electronic voter registration format via an electronic manner accepted by the Secretary of State.
  4. The information specified in subsection (C)(1) uniquely identifies an elector of a county recorder's voter registration roll by name and date of birth.
- D.** Information collected for the intent of initial registration to the voter registration rolls may be transmitted electronically if:
1. The information meets the criteria of subsection (C);
  2. The information contains a digitized image of a registrant's wet signature; and
  3. The information has been electronically signed by a registrant to authorize the transmitter to release the electronic voter registration form.
- E.** Voter registration information shall be kept confidential pursuant to A.R.S. § 16-153.
- F.** Driver's license information shall be kept confidential pursuant to A.R.S. § 16-112.