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## Proposed Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC40-601
<b>VAC Chapter title(s)</b>	Supplemental Nutrition Assistance Program
<b>Action title</b>	Repeal Section 50, Application Processing
<b>Date this document prepared</b>	2/17/2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

22 VAC 40-601-50 allows for the denial of applications for Supplemental Nutrition Assistance Program (SNAP) benefits after 30 days if the local department of social services is unable to process the application because additional information is needed. Federal regulations permit this processing method or the processing method that is currently in use.

This regulatory action seeks to repeal 22 VAC 40-601-50. The State Board of Social Services established section 50 in 2011 as a potential local work reduction effort. However, full comprehension of federal requirements and system changes required for implementation of the provision extinguished hope for work reduction outcomes. There is no longer any intention to implement the processing method outlined in section 50.

## Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.*

CFR Code of Federal Regulations  
SNAP Supplemental Nutrition Assistance Program  
VDSS Virginia Department of Social Services

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

A periodic review of 22 VAC 40-601, pursuant to Executive Order 14 (as amended July 16, 2018) resulted in the realization that the agency has not implemented section 50 and likely would never implement the provision.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. Title 7 of the Code of Federal Regulations (CFR) at §271.4 delegates responsibility to administer SNAP within a state to the agency assigned responsibility for other federally funded public assistance programs. 7 CFR §273.2(h) allows states an option to deny SNAP applications after 30 days or to extend the pending status for an additional 30-day period.

## Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.*

SNAP applicants must apply for benefits in the city or county where they live. SNAP benefits are calculated from the date the application is filed. Local departments of social services normally have 30 days from the filing date to process SNAP applications. Federal regulations allow one of two options for processing applications if the local worker is unable to complete the processing of the application by the end of 30 days. States must either deny the unprocessed applications at the end of the 30-day period or extend the processing period by 30 additional days. For both processing methods, the day the applicant

household supplies needed information will determine the amount of SNAP benefits authorized if the applicant provides the information after the 30<sup>th</sup> day.

The agency initiated section 50 in an effort to reduce local workload activities. However, it was determined that the effort to implement the application processing method would not likely result in significant reduced work activities to offset the major system modifications needed, altered work activities and documents, and the retraining of the work force.

The chapter sets out the framework by which local departments of social services administer SNAP benefits. SNAP is essential to the health and welfare of citizens, as it provides for nutritional benefits to supplement the food budgets of eligible families. Repeal of 22 VAC 40-601-50 will not affect the health and safety of citizens. The welfare of citizens is also unaffected by this regulatory action, in that the amount of SNAP benefits one would receive would remain the same regardless of the application processing method states adopt.

**Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

Currently, 22VAC40-601-50 allows local eligibility workers to deny SNAP applications that remain unprocessed as of the 30<sup>th</sup> day, if applicants fail to provide information or fail to take actions needed to determine eligibility for benefits. Local workers must notify applicants of the actions or information needed to process the applications and inform the applicants of an opportunity to have the denial rescinded by providing the processing actions within the next 30 days. The date applicants provide pending information will determine the amount of benefits applicant households will receive. If applicants fail to provide requested information or take required actions, the application will remain denied.

The substantive change to the chapter is repealing section 50, which will mean the SNAP applications will be held pending for an additional 30 days if applicants fail to provide information or take required actions after the initial 30-day period. Applicants that fail to provide information or take action during the extended pending period will have their SNAP applications denied on the 60<sup>th</sup> day following the application date. 7 CFR §273(h) allows the states an option to deny SNAP applications after 30 days or to extend the pending status for an additional 30-day period.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

There are no advantages or disadvantages to the public or the Commonwealth in repealing 22 VAC 40-601-50.

**Requirements More Restrictive than Federal**

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale*

*for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

Federal requirements allow states to adopt one of two methods for processing SNAP applications. Neither option exceeds federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

**Other State Agencies Particularly Affected**

The repeal of the application processing amendment will not affect other state agencies.

**Localities Particularly Affected**

All localities receive and dispose of SNAP applications. Repeal of the amendment does not affect staffing or work activities of local social services departments.

**Other Entities Particularly Affected**

The repeal of the application processing amendment will not affect other entities. The amount of SNAP benefits to applicants will remain the same using the existing method.

**Economic Impact**

*Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:                  a) fund source / fund detail;                  b) delineation of one-time versus on-going expenditures; and                  c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>Implementing 22 VAC 40-601-50 would require reprogramming of the statewide eligibility management computer system to allow for the automatic denial of applications on or after the 30<sup>th</sup> day instead of the 60<sup>th</sup> day and to allow for the reinstatement of the original application date if information is provided during the next 30 days. The repeal of 22 VAC 40-601-50, however, will mean there will be no system reprogramming costs or costs needed for training of local and state social services staff.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the</p>	<p>There are no projected costs, savings, fees, or revenues to other state agencies for the repeal of 22 VAC 40-601-50.</p>

regulatory change, including a delineation of one-time versus on-going expenditures.	
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The repeal of 22 VAC 40-601-50 will mean there will be no system reprogramming costs or costs needed for training of local and state social services staff.

**Impact on Localities**

Projected costs, savings, fees or revenues resulting from the regulatory change.	There are no projected costs, savings, fees, or revenues to localities for the repeal of 22 VAC 40-601-50.
Benefits the regulatory change is designed to produce.	The repeal of the application processing amendment will not affect localities.

**Impact on Other Entities**

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	The repeal of the application processing amendment will not affect other entities. The amount of SNAP benefits eligible applicant households will receive before and after repeal of the application processing amendment will be unchanged. Benefits will continue to be prorated from the last date applicants provide verification/information if verification/information is provided after the initial 30 days following the application filing date
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The repeal of the application processing amendment will not affect other entities.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There are no projected costs for individuals, businesses, or other entities for the repeal of 22 VAC 40-601-50
Benefits the regulatory change is designed to produce.	The action eliminates a provision that the agency has not implement, or intends to implement. The benefit is that local departments and citizens will have clearer regulatory guidance.

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

Federal regulations allow two methods for processing SNAP applications if there is a delay in processing the application 30 days after the filing date. The choices are to deny the application on the 30<sup>th</sup> day but, reopen the case without requiring another application if applicants provide required information within the next 30 days; or, to send a notice on the 30<sup>th</sup> day informing applicants that the application is still pending for another 30-day period and the actions needed for processing. The processing option does not affect the amount of benefits SNAP households would receive.

Continuing to use the extended processing method is not intrusive to program recipients nor is it costly to federal or state governments. The repeal does not affect small businesses.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

This action simplifies the regulation by removing an unnecessary provision. There is no impact on small businesses.

### Periodic Review and Small Business Impact Review Report of Findings

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.*

*In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of*

*time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

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The State Board of Social Services approved the recommendation to amend and the Periodic Review Report of Findings in April 2019.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

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No comments were received in response to the Notice of Intended Regulatory Action.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

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The Virginia Department of Social Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Michele Thomas, Virginia Department of Social Services, Division of Benefit Programs, 801 E. Main Street, Richmond, VA 23219, 804.726.7866, or [michele.thomas@dss.virginia.gov](mailto:michele.thomas@dss.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

### Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

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*If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.*



Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
601-50	n/a	Local departments of social services must deny SNAP applications on the 30 <sup>th</sup> day after the application filing date if applicant households fail to provide information by the 30 <sup>th</sup> day. Local departments of social services must reactivate and process the application if the applicant supplies required information within the next 30 days.	<p>Local departments of social services must notify applicants on the 30<sup>th</sup> day after the application filing date that their SNAP applications are pending and the information needed to continue processing the application if applicant households fail to provide information by the 30<sup>th</sup> day. Local departments of social services must process the application if the applicant supplies required information within the next 30 days. . Local departments of social services must send a denial notice on the 60<sup>th</sup> day if the applicant fails to provide information.</p> <p>The rationale is eliminating an unnecessary provision that will never be implemented. There will be no impact on local departments and citizens.</p>