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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Elections
<b>Virginia Administrative Code (VAC) citation(s)</b>	1 VAC 20-40-70
<b>Regulation title(s)</b>	Applications for Voter Registration; Affirmation of United States Citizenship
<b>Action title</b>	2016 Voter Registration Application and Form Update
<b>Final agency action date</b>	April 28, 2016
<b>Date this document prepared</b>	May 24, 2016

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The State Board is amending its regulation and accompanying application form regarding registering to vote in the Commonwealth. The changes to the regulation and the form focus on increasing usability, and generally streamlining the application in order to make it easier for eligible Virginians to register to vote.

Box 1

Several changes were made from the original draft regulation to this final version. The first revision made to the draft Voter Registration Application form in response to public comments appears in Box 1. The Application’s revised affirmation statement requires the applicant to sign a statement expressly affirming that the applicant meets all voter eligibility criteria, including U.S. citizenship. Further in response to public comment, the proposed insertion to 1 VAC 20-40-70 (identifying a failure to respond “Yes” to this question as an immaterial omission) was struck.

The language related to the provision of an applicant’s social security number (“SSN”) was amended to emphasize to the applicant that it is mandatory to provide a complete social security number (as opposed to merely the last four digits).

The request for the applicant to provide “gender” has been revised. To ensure that this is possible for all applicants, the revised form eliminates the binary choice and simply includes a blank line upon which the applicant may provide the best response in Box 1.

### Box 2

The only change on the Application related to the middle name question involves the deletion of “or maiden name” which appears on the old Application in conjunction with the request for middle name as follows: “Full Middle or Maiden Name.” The request for “maiden name” has been removed. The only relevant change to the regulations expressly recognizes that a failure to provide a middle name is an immaterial omission if the applicant indicates that she does not have a middle name.

Requests for email address and phone number have been revised. They have been moved and now appear in Box 2. In addition, 1 VAC 20-40-70 has been revised to identify the failure to provide an email address as an immaterial omission.

### Box 3

A 2016 amendment to Virginia Code § 24.2-418 required revision of the questions appearing in Boxes 4 and 5 of the old Application related to previous felony conviction and declarations of mental incapacity. The new Application combines both questions into the following: “Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote?” In further compliance with the legislative changes, the questions related to the state in which the felony conviction occurred and the date of restoration have been struck. Finally, Section K of 1 VAC 20-40-70 has been added, which prohibits general registrars from placing additional burdens on eligible Virginians who have been previously convicted of a felony if the applicant’s restoration information appears in the Secretary of the Commonwealth’s database which is accessible by the general registrars.

### Box 4

Box 4 was to ensure that all applicants who qualify for protected voter status, and are otherwise eligible to provide a mailing address in addition to a residence address, may easily do so.

In recognition of the special status that the General Assembly has bestowed upon certain military members, their families, and overseas citizens, the revised regulation requires general registrars to notify applicants who may qualify for an extended voter registration deadline of these rights.

Box 5

Section 7 of the old form has been streamlined to ensure that duplicative information is not requested in light of amendments to the Code of Virginia §§ 24.2-114 and 24.2-418 (requiring the Department of Elections to electronically notify the proper authorities in other states of a Virginia voter registrant’s written authorization to cancel their prior voter registration) and only requires the applicant to provide the state in which he was previously registered. The authorization to cancel the voter’s previous voter registration statement now appears in the revised Affirmation Statement found in Box 7

1 VAC 20-40-70 has also been revised to indicate that if an applicant is currently registered in Virginia, the failure to indicate “Virginia” as the state in which the applicant is currently registered is an immaterial omission.

Box 7

The Application now includes a stronger and clearer affirmation statement related to an applicant’s eligibility. This Affirmation Statement expressly includes the voter eligibility requirements and requires the applicant to affirm that he meets each individual requirement. In compliance with Article II, Section 2 of the Constitution of Virginia, individuals with physical disabilities are not required to sign the form. While not required to sign the form, these individuals must affirm both that they 1) are an individual with physical disabilities, and 2) they affirm the Affirmation Statement.

1 VAC 20-40-70 has been revised to indicate that failure to provide a signature is an immaterial omission if the applicant indicates physical disability status, and that failure to indicate physical disability status is an immaterial omission if the applicant includes a signature.

Other changes

In addition to the revisions specified above, the Application is now formatted for standard sized paper (8.5” x 11”).

Section F of the proposed regulations formalizes common practice throughout the Commonwealth that the registration application can be utilized to conduct a change of address by an existing voter. This regulation is consistent with federal law allowing changes of address to be submitted using the voter registration application and Virginia Code §24.2-424.

Section H of the regulation requires general registrars to accept or deny applications within 30 days of receipt.

Finally, the final regulation adds language allowing prior versions of the registration application to be accepted and processed by general registrars.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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At its meeting on April 28, 2016, the State Board of Elections approved amendments to Chapter 40 of its regulations titled Applications for Voter Registration; Affirmation of United States Citizenship.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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None