



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Department of Social Services
VAC Chapter Number:	22 VAC 40-41-10 et. seq.
Regulation Title:	Neighborhood Assistance Program
Action Title:	Amend Existing Regulation
Date:	January 31, 2002

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package .

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The Neighborhood Assistance Program regulations describe how non-profit organizations can qualify to become a Neighborhood Assistance (NAP) project. This would make those organizations eligible for an allocation of tax credits to be used to attract donations. The regulations also describe how tax credits are allocated among the NAP projects and how donations are valued.

These amendments to the regulations reflect changes to the controlling Virginia Code statute over the past several years.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The Department of Social Services has amended the regulations for the Neighborhood Assistance Tax Credit Program to bring them in line with recent legislative changes. The State Board of Social Services approved the final amendments to the regulation (22 VAC 40-41-10, Neighborhood Assistance Program) at their meeting on January 31, 2002.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

The Neighborhood Assistance Program is a state tax credit program and has no federal requirements.

Section 63.1-323 of the Code of Virginia authorizes the State Board of Social Services to promulgate regulations for the approval and disapproval of proposals by organizations who seek to be included as NAP projects, and also for determining the value of donations to those organizations. Legislation that passed the 2001 General Assembly requires regulations covering donations by individuals to NAP projects.

These amendments add new sections describing the process for individuals to receive tax credits for cash donations to projects and the value of those tax credits. They also reflect language that allows contracting services to be donated and describes the valuing of those donations.

There are also a couple of “housekeeping” changes to existing language to correct grammar or make the intent clearer.

The Office of the Attorney General has certified that the Department has the statutory authority to promulgate this regulation and that it comports with applicable state law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

These amendments are necessary both to meet the statutory requirements that regulations be promulgated for the program, and to provide the public with as much information as possible on all rules and requirements for participants in the program.

The Neighborhood Assistance Program has been changed by legislation every year for at least the past four. This makes it difficult to keep the regulations current. The goal in preparing regulations for this program is to provide as much detail as possible, but still allow for the annual changes. This is accomplished by references to sections of the Virginia Code that change frequently. For example, rather than put into the regulations the current minimum cash donation by an individual, reference is made to the minimum stated in “63.1-325.2.” It is anticipated that the amount specified in the Code will change again before these regulations make it through the regulatory process. This requires individuals looking at the regulation to also check the Virginia Code, but it eliminates the confusion that could be caused by a conflict between the two.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.

The amendments add “contracting services” as services that are allowable as a donation eligible for tax credits. Prior to this change, the only services that were allowed were those listed in the Procurement section of the Code of Virginia.

Individuals can now make cash donations to NAP programs in exchange for tax credits. Language was added in several sections to clarify this.

The list of health professionals who can receive tax credits for donations of their professional services was increased. Nurse practitioners, physician’s assistants, optometrists, dental hygienists, and pharmacists, were added. These health professionals can use the tax credits they receive for donating their professional services on their individual tax returns. Their donation must be made to a clinic that is an approved NAP project.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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, please include a sentence to that effect.

This regulation makes additional information, beyond that in the Code of Virginia, available to the public to help them understand how the Neighborhood Assistance program operates. The regulation is part of the package that is used in workshops on the program offered around the state each year.

These amendments are the result of changes to the program made during the past two General Assemblies. The amendments explain the types of services that contractors can donate and receive tax credits for those donations. They also make it clear that individuals can receive a tax credit for their cash donations to NAP projects. In addition, the amendment expands the list of health professionals who can donate their professional services to approved NAP projects and receive tax credits.

The only disadvantage to the public is that the regulations must be as general as possible to prevent their being outdated due to legislative changes before the regulatory process is completed. The Neighborhood Assistance Program has been changed by the legislature every year for at least the past four years.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

The only change to the text of the regulation since the proposed stage, is the addition of “22 VAC 40-41-55 Donations by Individuals” on page one. This line was inadvertently left out of the language of the proposed regulation. It is necessary to show that the new language on Individual Donations (pages 12 and 13) in the text is intended to be a separate section and not part of the prior section. There is no change to the substance of the regulation.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

No comments were received during the public comment period.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

A definition of “Contracting Services” is being added to 22 VAC 40-41-10. Contracting services are a recent addition to the list of donations by businesses that are eligible for tax credits.

In 22 VAC 40-41-20 A, the words “and individuals” are added to the sentence explaining the purpose of the program. This broadens the group who are encouraged to make donations to participating programs.

The words “approval period” are changed to “program year” in 22 VAC 40-41-20 D. The old language may have given the impression that an organization could apply at any time to become a NAP project. Organizations apply in May and are approved for the program year which corresponds to the state fiscal year.

In 22 VAC 40-41-40 D, including sections 1 and 2, words are added to insure that contracting services, as well as professional services, are included. These sections discuss placing a value on services.

22 VAC 40-41-40 D 3, has language added to include nurse practitioners, physician’s assistants, optometrists, dental hygienists, and pharmacists to the paragraph describing how to place a value on donations by health professionals.

22 VAC 40-41-50, this title line was changed from “physicians and dentists” to “health care professionals,” to reflect the increased number of individuals in different health care fields who can receive tax credits for donations made under this program.

22 VAC 40-41-50 C, was changed to reflect the entire list of health care professionals now allowed to participate.

The change to 22 VAC 40-41-50 D, is a housekeeping measure. The word “Discounting” was changed to “Discounted.” This is a grammatical correction.

22 VAC 40-41-50 G, describes the process for completing and sending a required form to the Department of Social Services. The language was changed to reflect the broader range of participants in the program. The abbreviation NAP was also changed to Neighborhood Assistance projects, because the abbreviation had not been defined prior to its use in this section.

22 VAC 40-41-55 A through D, is a new section that was added to describe the process for donations made by individuals to Neighborhood Assistance projects.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.

These regulations reflect legislative changes that increase the incentives for businesses, medical professionals, and individuals to make donations to Neighborhood Assistance projects. These projects help families in many ways from crisis intervention, to job training, education, health care, and childcare. Any increases in donations to these programs are reflected in improved services to families in need.

For those families who are able and interested in making donations to a Neighborhood Assistance project, the tax credit they receive can impact disposable income.

It is important that anyone looking at the regulation for this program, whether they are a business, health care provider, or individual donor, find regulations that are complete and up-to-date.