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## Final Regulation Agency Background Document

<b>Agency name</b>	Library of Virginia
<b>Virginia Administrative Code (VAC) citation(s)</b>	<u>17 VAC 15-61</u> , <u>17 VAC 15-60</u> , <u>17 VAC 15-70</u> , and <u>17 VAC 15-80</u>
<b>Regulation title(s)</b>	Standards for Permanent Instruments Recorded by Hard Copy Standards for Plats Standards for Recorded Instruments Paper Used in Permanent Court Records
<b>Action title</b>	Regulatory Reform: Legible and Reproducible Documents Acceptable for Permanent Recordation
<b>Date this document prepared</b>	July 30, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 Library of Virginia is promulgating a new regulation (17 VAC 15-61) that will combine the standards currently spread out over three regulations (17 VAC 15-60, 17 VAC 15-70, and 17 VAC 15-80). This action will simplify and better organize the essential parts of the current regulations, as well as omit obsolete sections.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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N/A

### 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 January 26, 2015 the Library Board approved the promulgation of 17 VAC 15-61, *Standards for Permanent Instruments Recorded by Hard Copy.*

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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Under Code of Virginia (42.1-82), one of the duties and powers of the Library Board is to "issue regulations designed to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records by all agencies." Per the Virginia Public Records Act, an agency is defined as: "all boards, commissions, departments, divisions, institutions, authorities, or parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers."

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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This regulation provides a standard to which each circuit court clerk or designee can compare the medium, inscription, and format of paper instruments presented for recording and filing, when such instruments will become permanent records. Without regulation of this subject matter, instruments submitted to record may be of such quality that reformatting them to the copy of record, via electronic image or microfilm, for the purpose of producing copies indefinitely, can be significantly hindered. Records with an inferior ability to be read or copied leave the rights of citizens and property holders in jeopardy. The promulgating of this new regulation (streamlined from the three regulations which will be repealed in this action), consistently applied by all clerks, will provide the means by which all who submit and all who examine instruments for recordation can understand and apply the requirements accurately and uniformly.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

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The Library will repeal 17VAC15-60-10 et seq. Standards for Plats, 17VAC-70-10 et seq. Standards for Recorded Instruments, and 17VAC-80-10 et seq., Paper Used in Permanent Court Records, and promulgate the proposed regulation (17 VAC 15-61), omit the obsolete sections, and combine the essential parts of the previous regulations into a simplified and better organized regulation.

## Issues

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

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The primary advantage to the circuit court clerks is a clearer, more effectively-applied standard that they will be able to cite or present to record submitters when the instrument submitted does not meet the standards. The proposed regulation will be more easily understood and applied by the parties submitting instruments for recordation. The advantage that this provides to the public is that all instruments submitted for permanent recordation that meet the standards in the proposed regulation will be legible and reproducible whenever the record is accessed or duplicated. There are no disadvantages to the public or the commonwealth as a result of this regulatory action.

## Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

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There are no applicable federal requirements.

## Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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The proposed regulation will affect all localities in the commonwealth.

### 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.*

This regulation will protect families who own property by significantly helping to ensure that the legal documents that identify and describe their property, the transference of their property, the title to their property, and the mortgage of their property, as well as all other accompanying documents submitted for recordation are legible and reproducible. By so doing, families are protected from distress over possible property fraud and further cost to legally prove ownership of their property or transference of previously held property.

### Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

None

### Public comment

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.*

Commenter	Comment	Agency response
Robert M. Gordon President Loudoun Commercial Title – Town Hall	<i>“I don’t know if the current maximum on plats is 18 x 24 or if they occasionally have to use a larger size. If 18 x 24 is the current maximum and there is no change I have no concerns. If it is a reduction from the maximum allowed size I would have a problem.”</i>	The maximum size allowed for plats that are to be recorded in a circuit court clerk’s office is the same in the current regulation as in the one being proposed. <a href="#">17VAC15-60-20. Recording medium</a>
Robert M. Gordon	<i>“I don’t know if the limitation on two sided originals is new. I</i>	The current standard for recording plats prescribes that “inscriptions are to be

President Loudoun Commercial Title – Town Hall	think it's a good idea.”	made on only one side of the paper” <a href="#">17VAC15-60-40. Format for copies</a> , so there would be no change made in this regard.
Carolyn H. Honeycutt, Clerk; Carroll County Circuit Court – Town Hall	<i>The proposed actions accomplish simplification by reducing the number of regulations while modernizing the regulations for what we do today, removing old terminology and processes no longer used.</i>	Acknowledged
Victoria Mayfair – Town Hall	<i>Sounds like a great proposition, can't wait for it to be completed, wish they would take this account in Mayfair.</i>	No response

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
17VAC15-60 STANDARDS FOR PLATS  17VAC15-70 STANDARDS FOR RECORDED INSTRUMENTS  17VAC15-80 STANDARDS FOR PAPER FOR PERMANENT CIRCUIT COURT RECORDS	17VAC15-61 STANDARDS FOR PERMANENT INSTRUMENTS RECORDED BY HARD COPY	The standards from three separate regulations that are applied by a circuit court clerk to plats and other permanently retained instruments recorded in his office, as well to the paper upon which they are inscribed, in order to help ensure the permanent viability of those records, and the effectual, indefinite copying of those records.	Combines the three regulations into one, which eliminates redundancy in the Plats and the Recorded Instruments standards, allows the quality standards of all three current regulations to be more easily understood and effectively applied, and provides a single source for applying the recordation standards to all hard-copy instruments.
17VAC15-60-10 17VAC15-70-10 17VAC15-80-10	17VAC15-61-10 Statement of applicability	Each current regulation stipulates the unique instrument or medium to	Addresses both instrument types and the paper medium, providing a single source for quality standards.

Statement of applicability		which its standards apply.	
17VAC15-70-20 Recording medium (recorded instruments)	17VAC15-61-20-A Permanent recording and filing medium (written instruments)	Requires that instruments be recorded on paper that is uniformly white, opaque, smooth in finish, unglazed, and free of visible watermarks and background logos; that the size of the paper be between 8 ½ x 11 and 8 ½ x 14 inches, and that the paper has a minimum weight of 20 pounds; and that negative (white on black background) and carbon copies not be accepted. This section allows that positive (black on white background) copies may be substituted provided the copies meet the paper and quality inscription standards noted in the section, and that the copies are “microfilmable” to the extent that they are capable of producing a legible image from the microfilm.	Retains the same requirements as the current section, and adds “carbon copies” as an unacceptable medium for permanent recordation. The qualities of a carbon copy would render the instrument non-permanent and non-reproducible over time.  Removed the extraneous “microfilmable” language. If the document meets all of the standards set forth herein, it shall contain all of the characteristics necessary for a clean reproduction in any format.
17VAC15-60-20 Recording medium (plats)	17VAC15-61-20-B Permanent recording and filing medium (plats and other drawings)	Requires that the paper size be between 8 ½ x 11 and 18 x 24 inches, (with the scale being appropriate to the size of the paper); that original plats be inscribed on either translucent or opaque paper, but also allows for mediums of polyester or linen; that the background quality for opaque paper be uniformly white, smooth in finish, unglazed, and free of visible watermarks or background logos; and that the original or a first generation unreduced	The same quality standards for the plat-recording medium remain, but now each requirement is broken down into separate subdivisions for more accurate reference and citation. This provides for the continuation of the standards that the medium must meet in order to produce a permanent record that will render a legible copy, while allowing the clerk to be specific about any issue(s) that cause(s) a document to be rejected for recordation.  Subdivision B will also apply the quality standards to drawings that are not plats by definition, but that are recorded with a plat or other instrument to add reference to the land

		<p>black- or blue-line copy of the original plat drawing, which meets the quality inscription standards set forth later in the section, and has the stamp and original signature of the preparer, be submitted for recordation.</p> <p>This section allows that a plat, prepared prior to 1986 that is being entered as reference, can be recorded if the current landowner's notarized signature appears on the plat, provided that any changes or alterations made to any original plat must be accompanied by the stamp and signature of the preparer who made the changes / alterations; and that any plats exempted from this chapter under the Code of Virginia can be recorded with the notarized signature of the original preparer.</p>	<p>parcel being recorded. Placing the required medium standards on "other drawings" will help ensure their preservation and ability to be indefinitely copied, as they become just as permanent of a record as the plat. While some "other drawings" may not be able to meet the standards, if the drawing cannot stand the permanence test of time, there will be a reference to a document that doesn't exist or is not reproducible.</p> <p>The proposed subdivision will remove the language that allows for a plat prepared prior to 1986 to be recorded with just the current landowner's notarized signature, as there is no compelling reason to allow a "reference plat" for recording if the plat does not meet the proposed standards, nor to disallow it if it does, no matter the date of preparation.</p> <p>No surveyor (or anyone else) should modify a plat that has already been certified by the original surveyor. Each surveyor should certify only his own work.</p> <p>As there may be various code sections that allow VDOT, municipalities, power companies, etc to use their own engineers to prepare plats, if such plats are exempt from these regulations then these regulations can't very well require that those plats be signed by someone. The responsible person's name should be stated on the plat, but that policy, or requirement, should be covered elsewhere in regulations or code.</p>
<p>17VAC15-70-30. Inscription standards</p>	<p>17VAC15-61-30-A-1 Inscription</p>	<p>Requires that all inscriptions be black, solid, uniform, dense,</p>	<p>This proposed subdivision retains the same requirements as the current section and adds the clarification that</p>

<p>(recorded instruments)</p>	<p>quality (written instruments)</p>	<p>sharp, and unglazed. Defines that inscriptions are solid when the lines forming each letter do not have blank or light spots, they are uniform when the entire letter is the same darkness, they are dense when each letter is dark, they are sharp when the demarcation between each letter and the background is abrupt, and they are unglazed when they are non-reflective. Requires that signatures be in dark blue or black ink.</p>	<p>all signatures “shall be original.”</p>
<p>17VAC15-70-40 Inscription size (recorded instruments)</p>	<p>17VAC15-61-30-A-(2-5) Inscription quality (written instruments)</p>	<p>Requires that printing be nine point or larger. Typing shall be elite (12 characters per inch) or pica (10 characters per inch) or larger.</p>	<p>These proposed subdivisions retain the same requirements as the current section, and add the requirement for the font to be equivalent to a normal Arial or Courier. This addition will disallow the submission of documents inscribed by a font that is difficult to read.</p>
<p>17VAC15-60-30. Inscription standards (plats)</p>	<p>17VAC15-61-30-B Inscription quality (plats and other drawings)</p>	<p>Requires that the color of the original inscription be black or blue, and be solid, uniform, dense, sharp, and unglazed. Requires that signatures be in dark blue or black ink. Requires that lettering be no less than 1/10 inch or 2.54 mm in height, that lettering and line weight be no less than .013 inches or .3302 mm, and that letter and line spacing for control pencil drawings shall be no less than .050 inches and for ink drawings no less than .040 inches. Requires that the drawing substance be either wet ink or control pencil but not a combination thereof. Requires that good drafting practices be followed when</p>	<p>The same inscription quality characteristic requirements are retained. The description of each quality characteristic is added, just as in the respective subdivision for Recorded Instruments.</p> <p>The minimal lettering size is reduced to .09 inch (2.29mm) due to modern printing capabilities.</p> <p>The “lettering and line weight” language has been removed, as well as the allowance for control pencil drawings. Pencil is not a permanent inscription.</p> <p>This language will be streamlined to “no ghost lines shall be used” and “all</p>

		<p>eliminating ghost lines and when doing erasures, and that all shading and screening over written data are eliminated. Requires that inscriptions meet the standards established herein, and that Engineering Drawing and Related Documentation Practices - Line Conventions and Lettering (ANSI Y14.2M - 1987), Technical Drawing - Lettering - Part I: Currently Used Characters (ISO 309 8/1-1974) Technical Drawings - Sizes and Layout of Drawing Sheets ISO 5457 - 1980 be consulted as guidelines.</p>	<p>shading and screening shall be eliminated over written data.”</p> <p>The reference to ANSI Y14.2M will be removed. That Standard has been superseded, and the standards established in 17VAC15-61-30 are sufficient.</p>
<p>17VAC15-70-50. Format (for recorded instruments)</p>	<p>17VAC15-61-40-A Format (for written instruments)</p>	<p>Requires that a minimum of one inch margin be provided on the left, top, and bottom margins and one-half inch on the right margin.</p>	<p>The proposed subdivision requires that the top margin be no smaller than 1 1/4 inch, and that the bottom, left, and right margins be no smaller than 3/4 inch, which will accommodate current printing practices and still leave adequate margins for reformatting purposes. The requirement that all written instruments be single sided will be added to parallel the same requirement for plats.</p>
<p>17VAC15-60-40. Format for copies (of plats)</p>	<p>17VAC15-61-40-B. Format (for plats)</p>	<p>Requires that margins shall be at least 1/4 inch on all sides; that inscriptions be made on only one side of the paper; that all drawings shall have centering marks on each side, adjacent and outside the margins; that match lines or grid tics delineating 8 1/2 x 11 inch sections be inscribed on all plats larger than 8 1/2 x 11 inches, so as to create the least number of grid blocks possible and be located adjacent and</p>	<p>The proposed subdivision maintains the requirements for 1/4 inch margins, that all inscriptions be made on only one side of the plat, and that all pages of a multi-sheet plat be the same size.</p>

		inside the margins; and that continuation sheets of multi-sheet drawings be the same size as the first sheet.	
17VAC15-70-60 Recording standards (recorded instruments)  17VAC15-60-50. Recording standards (plats)	17VAC15-61-50. Clerk's recording inscription	Requires that the recordation inscriptions be by clerk's printed certificate, stamping, typing, or handwriting, and that they conform to the quality inscription standards noted in this section.	The proposed subdivision maintains the same requirements.
17VAC15-70-70. Exclusions (recorded instruments)	17VAC15-61-60. Exclusions	Requires that the standards not apply to wills, nonpermanent disposable forms, such as Uniform Commercial Code forms, and Juvenile and Domestic Relations District Court and General District Court judgments and warrants. Original documents executed prior to July 1, 1986 shall be admitted to record. Where a plat is submitted as part of an instrument, the standards for plats shall apply.	The proposed subdivision retains the exclusion only for wills, as holographic wills are admissible for probate. All other documents submitted for permanent retention must meet the standards proposed in this section in order to permanently ensure an accessible and reproducible record.
17VAC15-60-60. Exclusion (plats)	No replacement subdivision	Allows for a first generation copy of an original plat drawing dated prior to July 1, 1986, to be admitted to record subject to the requirements of 17VAC15-60-20.	If the copy of a plat created at any time does not meet the standards set forth in this subdivision, rendering it potentially un-reproducible over the permanent life of the record, then the title to or boundaries of real property may become questionable.
17VAC15-60-70. Note	No replacement subdivision	Requires that a plat submitted as part of an instrument be subject to the standards noted in this section.	All plats submitted for recordation are subject to these standards, whether recorded as part of another instrument or as a unique record.
The remaining subdivisions of the Standards			

for Permanent Paper:			
17VAC15-80-20. Referenced standards	No replacement subdivision	Provides that this standard is intended to be used in conjunction with the following: The American Society for Testing and Materials D3290-81 "Standard Specifications for Bond and Ledger Papers for Permanent Records" and D3208-81 "Standard Specifications for Manifold Papers for Permanent Records" and American National Standards Institute ANSI Z39.49-1984 "Permanence of Paper for Printed Library Materials" and The Technical Association of the Pulp and Paper Industry T 509 om-83, "Hydrogen Ion Concentration (pH) of Paper Extracts - Cold Extraction Method." When these standards are superseded by a revision, approved by the promulgating organization, the revision shall apply.	This subdivision is not being replicated. There is little to no value in maintaining references for the basic standards set forth in the proposed section. As long as the basic standards are met, the copy of the permanent record should be reproducible.
17VAC15-80-30. Definitions	No replacement subdivision	Provided the definitions for "alkaline reserve," "ground wood," "pH," "permanence," and "uncoated."	These terms are not referenced in the proposed section, therefore definitions are not needed.
17VAC15-80-40. Minimum requirements	No replacement subdivision	Requires that uncoated paper meet minimum requirements in pH, alkaline reserve, paper stock, and paper weight.	The paper-making industry has vastly improved the quality of standard paper production since the 1991 version of this section. The determination was made that the burden of such stringent requirements are no longer necessary.