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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Labor and Industry
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	16VAC15-60 – new regulation Chapter 60
<b>VAC Chapter title(s)</b>	Regulation Governing On-The-Job Training Programs or Other Training Programs
<b>Action title</b>	Promulgate New Regulation Governing On-The-Job Training Programs or Other Training Programs
<b>Date this document prepared</b>	April 13, 2023

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.*

This regulation Governing On-The-Job Training Programs or Other Training Programs became effective on May 1, 2021 as an Emergency Regulation with an expiration date of October 30, 2022. On September 21, 2022, the Governor approved an extension of the emergency regulation with a new expiration date of April 29, 2023. This regulation sets forth the standards required for any on-the-job training or other training program that an employer must establish if the employers wishes to pay its employees the reduced rate for the duration of the 90 day training period. The proposed regulation is identical to the Emergency Regulation.

This chapter is promulgated pursuant to **§ 40.1-28.10 of the Code of Virginia**. Its purpose is to provide the standards required for any employer on-the-job training program or other training program established in accordance with § 40.1-28.10. This regulation is required by § 40.1-28.10.A.2. The goal of this regulation is to set forth the standards required for any on-the-job training or other training program that

an employer must establish if the employers would like to pay its employees the reduced rate for the duration of the 90 day training period.

The regulatory text for 16VAC15-60 was modified at the request of the Department of Planning and Budget (DPB) to include a definitions section 16VAC15-60-10 to define the following terms: employee, employer, good faith effort, limited responsibility, reasonable expectation, seasonal employee, similar or related experience, sufficient degree of technical skill, temporary employee. Therefore, the renumbering of the substantive provisions was revised as 16VAC15-60-20.

### 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.*

Commissioner – Commissioner of the Department of Labor and Industry  
DOLI - Department of Labor and Industry  
Department - Department of Labor and Industry  
General Assembly – Virginia General Assembly

### 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."*

This regulation Governing On-The-Job Training Programs or Other Training Programs became effective on May 1, 2021 as an Emergency Regulation with an expiration date of October 30, 2022. On September 21, 2022, the Governor approved an extension of the emergency regulation with a new expiration date of April 29, 2023. This regulation sets forth the standards required for any on-the-job training or other training program that an employer must establish if the employers wishes to pay its employees the reduced rate for the duration of the 90 day training period. The proposed regulation is identical to the Emergency Regulation.

This chapter is promulgated pursuant to §40.1-28.10 of the Code of Virginia. Its purpose is to provide the standards required for any employer on-the-job training program or other training program established in accordance with §40.1-28.10. This regulation is required by §40.1-28.10.A.2

### 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.*

The Commissioner is authorized by Title 40.1-6(3) to "make such rules and regulations as may be necessary for the enforcement of this title..."

During the 2020 General Session, the General Assembly passed SB 7 and HB 395, amending VA Code §40.1-28.10, Minimum Wages. See <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+SB7> and <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb395>.

The Chapter numbers of the legislation is 1242 and 1204:

<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1242> and

<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1204+pdf+becoming> effective May 1, 2021.

The amended Va. Code §40.1-28.10.A.2 specifically directs and authorizes the Commissioner of the Department of Labor and Industry to set regulations to provide standards for on-the job training or other training programs. The relevant language states; “Beginning May 1, 2021, every employer shall pay to each of his employees at a rate not less than the federal minimum wage or 75 percent of the Virginia minimum wage provided for in this section, whichever is greater. For the purposes of this subdivision "employee" means any person or individual who is enrolled in an established employer on-the-job or other training program for a period not to exceed 90 days which meets standards set by regulations adopted by the Commissioner.

Va. Code § 40.1-28.10. A.2 ; Va. Code § 40.1-6 (3)

### 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.*

This regulation is required by amended Va. Code §40.1-28-10.A.2 which directs the Commissioner of the Department of Labor and Industry to set regulations to provide standards for on-the job training or other training programs that can use the training wage provided in that law. This regulation Governing On-The-Job Training Programs or Other Training Programs became effective on May 1, 2021 as an Emergency Regulation with an expiration date of October 30, 2022. On September 21, 2022, the Governor approved an extension of the emergency regulation with a new expiration date of April 29, 2023. The purpose of this proposed stage is to make the emergency regulation permanent.

### 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.*

This regulation Governing On-The-Job Training Programs or Other Training Programs became effective on May 1, 2021 as an Emergency Regulation with an expiration date of October 30, 2022. On September 21, 2022, the Governor approved an extension of the emergency regulation with a new expiration date of April 29, 2023. This regulation sets forth the standards required for any on-the-job training or other training program that an employer must establish if the employers wishes to pay its employees the reduced rate for the duration of the 90 day training period. The proposed regulation is identical to the Emergency Regulation.

#### *Self Explanatory*

**A. This chapter is promulgated pursuant to § 40.1-28.10 of the Code of Virginia. Its purpose is to provide the standards required for any employer on-the-job training program or other training program established in accordance with § 40.1-28.10.**

*This language makes clear that the period for which the employee can be paid the training wage begins on the first day of their employment and runs for the statutory 90 day period. From May 1, 2021 until*

*January 1, 2022 the lowest the employer could pay would be the federal minimum wage of \$7.25 per hour as 75 percent of the Virginia minimum wage of \$9.50 per hour would be less than that. An employee who is trained or substantially trained to do the job does not need the training and the employer should not be able to pay reduced wages simply by calling the first 90 days of employment a training period.*

**B. Beginning May 1, 2021, an employee enrolled in an established on-the-job or other training program may, for the first 90 calendar days after start of employment, be paid a training wage of not less than 75 percent of the minimum hourly wage specified at §40.1-28.10, provided the following conditions are met:**

- 1. The employee has been hired in, and is receiving training for, an occupation in which the employee has no previous similar or related experience;**
- 2. The employer is not utilizing the employee being paid the training wage in a manner that causes, induces, encourages, or assists any displacement or partial displacement of any currently employed worker, including:**
  - a. By displacing any previous recipient of the training wage;**
  - b. By reducing hours of a currently employed worker;**
  - c. By replacing a current or laid off employee with a trainee;**
  - d. By relocating operations resulting in a loss of employment at a previous workplace; or**
  - e. In a manner that replaces, supplants, competes with, or duplicates any approved apprenticeship program;**

*An employer should not be able to reduce its labor costs simply by reducing the work of or firing current employees and replacing them with trainees at the reduced wage. An established training program is one that contemplates continued employment after the employee is fully trained. If the employer only keeps their training employees for ninety days and replaces them with new trainees the employer does not have a real training program and is simply using it as a cost reduction strategy. Other employers who are not churning employees in this manner may be at a competitive disadvantage. Virginia's well established registered apprenticeship program deserves to be protected as well.*

- 3. The occupation for which the employee is receiving training must require a sufficient degree of technical skill to necessitate a learning period. The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations;**
- 4. Such a training program must involve either formal instruction or on-the-job training during a period when the learners are entrusted with limited responsibility and are under supervision or guidance;**

*If an employee in the training program does not get formal instruction or on-the-job training during that 90 day period there is not really a program deserving of reduced wages. If the employer entrusts the employee in training with full responsibility and does not provide supervision or guidance the employer has recognized that the employee does not actually need the training and should not be able to pay them at the lower rate.*

- 5. Such a training program shall describe in writing the nature and extent of the instruction and supervision provided;**

*A written training program ensures that it is an established program that the employer, trainees and other employees can understand and support. It also allows the Department to adequately investigate a complaint about the program.*

**6. The employer makes a good faith effort to continue to employ the employee after the period of the training wage expires;**

*An established training program is one that contemplates continued employment after the employee is fully trained. The employer is not required to keep their training employees at the end of the ninety days. If they were not good employees or circumstances changed so that they are no longer needed they can be let go. If all trainees over a period on time are let go without getting a job it is evidence that the employer does not have a real training program and is simply using it as a cost reduction strategy.*

**7. The employer shall not hire the employee at the training wage unless there is a reasonable expectation that there will be regular employment, paying at or above the effective minimum wage, for the trainee upon the successful completion of the period of the training wage. The training wage shall not be applied to:**

- a. Seasonal employees; or**
- b. Temporary employees; and**

*An established training program is one that contemplates continued employment after the employee is fully trained. Hiring an employee at the training wage with the knowledge that the employee will not be kept on after the ninety day period is evidence the employer does not have a real training program and is simply using it as a cost reduction strategy. Explicitly stating seasonal employees and temporary employees are not eligible for the training wage reinforces the prohibition against using the training program as merely a cost reduction strategy.*

**8. An employee can only undergo one on-the-job training program or other training program established in accordance with §40.1-28.10 per employer.**

**a. A change in employment classification or duties required by the employer of the employee would not allow an employer to place that employee in another on-the-job training program or other training program established in accordance with §40.1-28.10.**

**b. Any employee may be placed in another on-the-job training program or other training program established in accordance with §40.1-28.10 with a subsequent employer so long as placing that employee in the on-the-job training program established in accordance with §40.1-28.10 would not violate subdivision 1 of this subsection**

*An employer should not pay an employee the training wage past the first 90 calendar day period of the employee's employment under the pretense that the employee is undergoing a subsequent training program with the same employer. More than one on-the-job training program for each employee per employer is prohibited.*

*However if an employee undergoes one 90 calendar day training program with one employer then secures employment with a different employer and the employment duties required by the new employer include a new technical skill the employee does not possess, that employee could be enrolled in a new 90 calendar day on the job training program with the new employer.*

**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.*

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Employers wishing to take advantage of paying a lower wage to their trainees will know whether they are able to take advantage of the provision. They will know their requirements and responsibilities in having such a training program. There will be some costs involved in having a written description of the training program. Employers who do not utilize the training wage will know that their competitors that do have one are not getting an undue competitive advantage. Employees will know if their employer is appropriately paying them at a reduced wage. The Department will be able to adequately monitor compliance with the training wage provision of the minimum wage law.

**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.*

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There are no applicable federal requirements, or no requirements that exceed applicable 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.*

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Other State Agencies Particularly Affected

No state agencies are particularly affected by this regulation.

Localities Particularly Affected

No localities are particularly affected by this regulation.

Other Entities Particularly Affected

No other entities are particularly affected by this regulation.

**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>The Department will be able to adequately monitor compliance with the training wage provision of the minimum wage law.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>This regulation that sets forth the standards required for any on-the-job training or other training program that an employer must establish if the employers wishes to pay its employees the reduced rate for the duration of the 90 day training period.</p>

**Impact on Localities**

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>No particular economic impact on localities</p>
<p>Benefits the regulatory change is designed to produce.</p>	

**Impact on Other Entities**

<p>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.</p>	<p><b>Employers</b> wishing to take advantage of paying a lower wage to their trainees.</p>
<p>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.</p>	<p>Number of entities unknown</p>
<p>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:</p>	<p><b>Employers</b> will have some costs involved in having a written description of the training program.</p>

<p>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.</p>	
<p>Benefits the regulatory change is designed to produce.</p>	<p><b>Employers</b> wishing to take advantage of paying a lower wage to their trainees will know whether they are able to take advantage of the provision. They will know their requirements and responsibilities in having such a training program. Employers who do not utilize the training wage will know that their competitors that do have one are not getting an undue competitive advantage.</p> <p><b>Employees</b> will know if their employer is appropriately paying them at a reduced wage during their participation in the training programs.</p>

### 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.*

There are no alternatives to this regulation because it is mandated by state law.

### 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.*

There is no regulatory flexibility to this regulation because it is mandated by state law.



## 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.*

This form is not being used to announce a periodic review or small business impact review.

## 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.*

The Department of Labor and Industry provided 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, and (iii) the potential impacts of the regulation. The comment forum is located here: <https://townhall.virginia.gov/L/comments.cfm?generalnoticeid=1183>. The Comment Period was opened 5/10/2021 and Ended on 6/9/2021. **There were no comments received by the public.**

Committer	Comment	Agency response

## 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.*

The Department 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>. 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 the proposed 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.*

*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

*If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.*

**Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace**

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
16VAC 16-60-10 <u>Definitions</u>	<p><u>"Employee" means any person or individual who is enrolled in an established employer on-the-job training program for a period not to exceed 90 days which meets standards set by regulations adopted by the Commissioner of Labor and Industry.</u></p> <p><u>"Employer" means any individual, partnership, association, corporation, or business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an</u></p>	§ 40.1-28.10 of the Code of Virginia	This section defines the terms used in 16VAC 60-16-20 for establishing requirements for job training programs.

	<p><u>employee. "Employer" includes the Commonwealth, any of its agencies, institutions, or political subdivisions, and any public body.</u></p> <p><u>"Good faith effort" means done honestly, objectively and with no deliberate intent to defraud.</u></p> <p><u>"Limited responsibility" means job duties that are substantially less than the expectations for a worker that has achieved a sufficient degree of technical skill and has completed a job training program.</u></p> <p><u>"Reasonable expectation" means a fair and sensible belief that something will happen.</u></p> <p><u>"Seasonal employee" means an employee in an occupation which can be carried out only at certain seasons or fairly definite periods of the year and which does not include such occupations as may be carried on through an entire year.</u></p> <p><u>"Similar or related experience" means knowledge or skill in a particular job or activity gained because the person has done that job or activity or a comparable job or activity for a meaningful period of time.</u></p> <p><u>"Sufficient degree of technical skill" means the ability to use the processes, practices, techniques, or tools of a particular area of expertise enough to meet the purpose and requirements of the job.</u></p> <p><u>"Temporary employee" means an employee supplied to a host employer and paid by a staffing agency whether or not the job is actually temporary.</u></p>		
<p>16VAC 60-16-20 <u>Requirements for job training programs</u></p>	<p>Beginning May 1, 2021, an employee enrolled in an established on-the-job or other training program may, for the first 90 calendar days after start of employment, be paid a training wage of not less than 75 percent of the minimum hourly wage specified at §40.1-28.10, provided the following conditions are met:</p> <ol style="list-style-type: none"> <li>1.The employee has been hired in, and is receiving training for, an occupation in which the employee has no previous similar or related experience;</li> <li>2.The employer is not utilizing the employee being paid the training wage in a manner that causes, induces, encourages, or assists any displacement</li> </ol>	<p>§ 40.1-28.10 of the Code of Virginia</p>	<p>This regulation Governing On-The-Job Training Programs or Other Training Programs became effective on 05/01/2021 as an Emergency Regulation, which expires on 10/31/2022. This regulation sets forth the standards required for any on-the-job training or other training program that an employer must establish if the employers wishes to pay its employees the reduced rate for the</p>

	<p>or partial displacement of any currently employed worker, including:</p> <ul style="list-style-type: none"> <li>a. By displacing any previous recipient of the training wage;</li> <li>b. By reducing hours of a currently employed worker;</li> <li>c. By replacing a current or laid off employee with a trainee;</li> <li>d. By relocating operations resulting in a loss of employment at a previous workplace; or</li> <li>e. In a manner that replaces, supplants, competes with, or duplicates any approved apprenticeship program.</li> </ul> <p>3. The occupation for which the employee is receiving training must require a sufficient degree of technical skill to necessitate a learning period. The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations;</p> <p>4. Such a training program must involve either formal instruction or on-the-job training during a period when the learners are entrusted with limited responsibility and are under supervision or guidance;</p> <p>5. Such a training program shall describe in writing the nature and extent of the instruction and supervision provided;</p> <p>6. The employer makes a good faith effort to continue to employ the employee after the period of the training wage expires;</p> <p>7. The employer shall not hire the employee at the training wage unless there is a reasonable expectation that there will be regular employment, paying at or above the effective minimum wage, for the trainee upon the successful completion of the period of the training wage. The training wage shall not be applied to:</p> <ul style="list-style-type: none"> <li>a. Seasonal employees; or</li> <li>b. Temporary employees; and</li> </ul> <p>8. An employee can only undergo one on-the-job training program or other training program established in accordance with §40.1-28.10 per employer.</p> <ul style="list-style-type: none"> <li>a. A change in employment classification or duties required by the employer of the employee would not allow an employer to place that employee in another on-the-job training program or other training program established in accordance with §40.1-28.10.</li> <li>b. An employee may be placed in another on-the-job training program or</li> </ul>		<p>duration of the 90 day training period. The proposed regulation is identical to the Emergency Regulation.</p>
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	<p>other training program established in accordance with §40.1-28.10 with a subsequent employer so long as placing that employee in the on-the-job training program or other training program established in accordance with §40.1-28.10 would not violate subdivision 1 of this subsection</p>		
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If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

**Table 3: Changes to the Emergency Regulation**

<b>Emergency chapter-section number</b>	<b>New chapter-section number, if applicable</b>	<b>Current <u>emergency</u> requirement</b>	<b>Change, intent, rationale, and likely impact of new or changed requirements since emergency stage</b>
16VAC15-60	16VAC15-60.10	No new requirement	Definition section was added for clarity.