



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | State Board of Elections |
| Virginia Administrative Code (VAC) citation | 1 VAC 20-70-20 |
| Regulation title | Material omissions on absentee ballots |
| Action title | Provide standards to assist local election officials in determining whether absentee ballots may be counted. |
| Date this document prepared | 8.24.2010 |

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

This regulation is needed to assist local election officials in determining whether absentee ballots may be counted by distinguishing what omissions are always material and require that the ballot be treated as void or invalid from those that are not material.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§§ 24.2-103, 24.2-706 of the Code of Virginia

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

A statewide regulation is needed to assure uniformity in administration of absentee voting.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

This regulation details standards to assist local election officials in determining whether absentee ballots may be counted by distinguishing what omissions are always material and require that the ballot be treated as void or invalid from those that are not material

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

A statewide regulation is needed to assure uniformity in administration of absentee voting.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of the proposal, 2) the costs and benefits of the alternative or additional standards, and 3) potential impacts of the regulation. The agency is also seeking information on impacts on candidate, political parties, voters and election administrators. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected candidates, political parties, voters and election administrators, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so **at the public hearing scheduled September 14, 2010**, or via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email, or fax to Peter Goldin, 1100 Bank St., Richmond, VA 23219, 804.864.8930, 804.864.786.0760 (fax), peter.goldin@sbe.virginia.gov Written comments must include the name and address of the commenter.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Family impact

Assess the potential impact of the proposed 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.

Absentee voting eligibility may extend to family members. This regulation could affect whether ballots may be counted.