



COMMONWEALTH of VIRGINIA
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To: John O'Bannon, Chairman
State Board of Elections

Steven Koski, Commissioner
Department of Elections

From: Alan Kennedy
Special Counsel for Elections

Date: October 7, 2026

Subject: Alternative Processing Procedures for Absentee Ballots Returned Before
Election Day, 1VAC20-70-40

I have reviewed the proposed amendments to the Alternative Processing Procedures for Absentee Ballots Returned Before Election Day in 1VAC20-70-40, as approved by the State Board of Elections on August 18, 2026. Having reviewed these proposed amendments, I certify that the State Board of Elections has the authority to promulgate these amendments pursuant to Virginia Code § 24.2-103 and Virginia Code § 24.2-709.1. I further certify that these proposed amendments do not appear to conflict with the Constitution of the United States or of the Commonwealth of Virginia, or any federal or state law currently in effect. Finally, this regulatory action is exempt from the Administrative Process Act pursuant to Virginia Code § 2.2-4002(B)(8) because it relates to the conduct of elections.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the regulatory action reviewed.