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Proposed Regulation Agency Background Document

Agency name	Department of Labor and Industry
Virginia Administrative Code (VAC) citation	16 VAC 20-20
Regulation title	Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia
Action title	This amendment makes language changes to clarify Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.
Date this document prepared	October 29, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The amendments add new definitions and clarifying language. Some language has been changed to update phrasing. For example, the phrase "Supervisor of apprentices" will be deleted and, in its place, will be added "Coordinator of Apprenticeship."

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., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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.

The Virginia Voluntary Apprenticeship Act of April 1938 was promulgated after the National Apprenticeship Act (Fitzgerald Act), was passed in 1937. The purpose of the Virginia Act was to establish a recognized method of training the skilled workforce needed by manufacturers, the construction industry, defense industries and the shipbuilding industry.

The Code of Federal Regulations, Title 29, Part 29, Labor Standards for the Registration of Apprenticeship Programs, was published in the Federal Register in 1977, and established minimum standards that would have to be met by each state's council or agency to maintain or obtain recognition as a registration agency. Virginia's Voluntary Apprenticeship Act of 1938 was amended in 1978 so that the Virginia Apprenticeship Council would remain the authorized agency to register apprenticeship programs and apprentices in Virginia.

Sections 40.1-117 and 40.1-118 of the Code of Virginia require the Apprenticeship Council to establish standards for apprenticeship agreements. These standards shall not be lower than those prescribed by Chapter 6 of Title 40.1 and those established pursuant to Article 3 of Chapter 11 of Title 54.1. This regulation establishes those standards and does not exceed the minimum requirements of the state or federal mandates.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

Although this regulation is mandated by the Code of Virginia (Sections 40.1-117 and 40.1-118), the Department has also determined that this regulation is essential to

protect the health, safety, and welfare of the citizens of Virginia. To that end, the regulation has three goals, which are listed below.

1. To protect the economic welfare of Virginia's citizens by maintaining a highly skilled workforce to compete globally in a changing economy.
2. To provide a method of transition from school to work for high school graduates.
3. To protect public health, safety and welfare with the least possible intrusiveness and cost to citizens and businesses within Virginia.

Virginia remains competitive in construction, manufacturing, and shipbuilding industries. The Commonwealth's skilled workers contribute to national defense and make Virginia a viable choice of locations for industry and corporate headquarters. Graduates in such varied service areas as cosmetology, barbering, nail technicians, opticians, and culinary occupations also contribute to the skilled workforce. During the last three years, an average of more than 1,650 graduates per year have completed apprenticeship training in Virginia. In addition, apprenticeship training has produced many entrepreneurs who now operate businesses in Virginia.

Traditional apprenticeship and student apprenticeship programs also facilitate transition from school to work for high school graduates. Student apprenticeships permit students to begin their training as part-time employees in local businesses and industries, while they attend academic and vocational classes. For Virginia's high school graduates who do not attend a four-year college, a seamless process which eases them into the workforce will help Virginia to compete in a globally changing economy. At the end of the process, these skilled workers will earn reasonable incomes, which will enable them to support themselves and their families. They will support the economy by purchasing goods and services. They will contribute to the financial stability of the Commonwealth by paying taxes.

In addition, properly managed apprenticeship programs protect public health and safety by assuring that the training is conducted according to approved safety and health standards. Training that meets approved standards for compensation of apprentices protects the public welfare and well-being of Virginia's citizens.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

There are amendments to several subsections of the regulation.

Under 16 VAC 20-20-20. Definitions.

1. The definition of “Apprentice” has the following added language.

Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.

2. The following definitions are added:

“Job Site:” means

Construction: New/Renovation the approved building permit, Plan of Development contract number, or contractual agreement.

Non-Construction: The physical area within the walls that services are offered. The location that is identified on the license issued by the licensing board and/or the political locality.

“Supervision of Apprentices” means any supervisor/foreman/journeyworker/highly skilled mentor may be counted for direct supervision of an apprentice as long as they are of the same trade or occupation as the apprentice.

“Work Processes” means a defined industry specific skill set that must be mastered in the work environment during the term of the apprenticeship.”

3. ~~“Supervisor of apprentices”~~ is changed to “Coordinator of Apprenticeship.”

Under 16 VAC 20-20-40, the following subsections are changed.

B. 8. The phrase ~~supervisor of apprentices~~ is deleted and the phrase coordinator of apprenticeship is added.

B. 8. e. The phrase ~~vocational education authorities~~ is deleted and Related Instruction Provider is added.

B. 14. a. (Second paragraph) Registered is added and ~~Training~~ is deleted.

B. 14. a. 4. ~~Apprenticeship Training~~ is deleted and of Registered Apprenticeship is added.

B. 14. b. has the following changes.

1. The word ~~journeyman~~ is omitted and the word journeyworker is added; each occurrence of the word ~~journeymen~~ is deleted and, in each instance, replaced by journeyworkers.

2. The following language is added:

Two apprentices to the first five journeyworkers; (2:5)

Three apprentices to the first six journeyworkers; and (3:6)

and

(3:7; 4:8; 5:10; 5:11; 6:12; etc)

NOTE: The Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.

Under 16 VAC 20-20-60, the wording of subsection B.1.b. has trade, added before and the words or occupation added after “craft.”

Under 16 VAC 20-20-110, the word ~~trade~~ is deleted and the word occupation is added.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to the public, the agency, the Commonwealth, and the regulated community is that the amendments add new definitions and clarifying language with updated phrasing. There are no disadvantages.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are 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.

There are no requirements in this proposal which are more restrictive than 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.

No locality will be particularly or disproportionately affected by this proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to:

Reba O'Connor
Virginia Department of Labor and Industry
13 South 13th Street
Richmond, Virginia 23219
(804) 371-2631
Fax: (804) 371-6524
e-mail: reba.oconnor@doli.virginia.gov

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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.

A public hearing will not be held.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None.
Projected cost of the regulation on localities	None.
Description of the individuals, businesses or other entities likely to be affected by the regulation	There are currently 2,291 sponsors of registered apprenticeship training programs. Each of these sponsors will be minimally affected by this regulation.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The Department of Labor and Industry has no way of knowing the income of the active sponsors of Registered Apprenticeship training programs. As of October 24, 2007, there were 2,290 active sponsors. Of those, 66 sponsors had over 500 employees. Thus, there were 2,224 sponsors who had fewer than 500 employees and were defined as small businesses. These businesses will be minimally affected by this regulation.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	None.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

Because this regulation is mandated by the Code of Virginia (Sections 40.1-117 and 40.1-118), there are no alternatives for achieving the purpose of the regulation.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

There are no applicable alternative regulatory methods to this regulation because this regulation it is mandated by both federal and state law. Labor Standards for the Registration of Apprenticeship Programs are under Title 29, Part 29 of the Code of Federal Regulations, which sets out minimum standards to be met by each state’s council or agency to maintain or obtain recognition as a registration agency. Virginia’s Voluntary Apprenticeship Act of 1938, amended in 1978, authorizes the Virginia Apprenticeship Council as the agency to register apprenticeship programs and apprentices in Virginia. See the Code of Virginia (Sections 40.1-117 and 40.1-118)

This regulation is consistent with health, safety, environmental, and economic welfare in Virginia and does not have an adverse impact on small business.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

There were no comments on this regulation.

Family impact

Please assess the 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.

This regulation should strengthen the authority and rights of parents in the education, nurturance, and supervision of their children by allowing parents who are skilled journeyworkers to earn sufficient income to educate, nurture and supervise their children. Furthermore, this regulation is expected to have a positive effect on the

institution of the family and family stability because a skilled worker (journeyworker) has the ability to be employed as long as he/she is able to work in the trade and keeps his/her skills and educational needs current. Thus, this regulation and the registered apprenticeship program encourage economic self-sufficiency, self-esteem and the assumption of responsibility for oneself and one’s family.

To the extent that earning a reasonable income would strengthen the marital commitment, this regulation should accomplish that goal.

This regulation should facilitate an increase in disposable family income for the families of persons who complete registered apprenticeship programs.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
16 VAC 20-20-20. 1. Definitions.	Same.		New Updating Language: <u>Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.</u>
16 VAC 20-20-20. 2. Definitions.	Same.		New Updating Language: <u>“Job Site:” means</u> <u>Construction: New/Renovation the approved building permit, Plan of Development contract number, or contractual agreement.</u> <u>Non-Construction: The physical area within the walls that services are offered. The location that is identified on the license issued by</u>

			<p><u>the licensing board and/or the political locality.</u></p> <p><u>“Supervision of Apprentices” means any supervisor/foreman/ journeyworker/ highly skilled mentor may be counted for direct supervision of an apprentice as long as they are of the same trade or occupation as the apprentice.</u></p> <p><u>“Work Processes” means a defined industry specific skill set that must be mastered in the work environment during the term of the apprenticeship.”</u></p>
16 VAC 20-20-20. 3. Definitions.	Same.		<p>“Supervisor of apprentices” is changed to <u>“Coordinator of Apprenticeship.”</u></p>
Under 16 VAC 20-20-40 B.8.	Same.		<p>The phrase supervisor of apprentices is deleted and the phrase <u>coordinator of apprenticeship</u> is added.</p> <p>The phrase vocational education authorities is deleted and <u>Related Instruction Provider</u> is added.</p>
Under 16 VAC 20-20-40 B. 14.	Same.		<p>B. 14. a. (Second paragraph) <u>Registered</u> is added and Training is deleted.</p> <p>B. 14. a. 4. Apprenticeship Training is deleted and <u>of Registered Apprenticeship</u> is added.</p> <p>B. 14. b. has the following changes.</p> <p>The word journeyman is omitted and the word <u>journeyworker</u> is added; each occurrence of the word journeymen is deleted and, in each instance, replaced by <u>journeyworkers</u>.</p> <p>The following language is added:</p>

			<p>Two apprentices to the first five journeyworkers; (2:5)</p> <p><u>Three apprentices to the first six journeyworkers; and (3:6)</u></p> <p>and</p> <p><u>(3:7; 4:8; 5:10; 5:11; 6:12; etc)</u></p> <p>NOTE: The Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.</p>
16 VAC 20-20-60, B.1.b.”			<p>The wording of subsection B.1.b. has <u>trade</u>, added before and the words <u>or occupation</u> added after “craft.</p>
16 VAC 20-20-110			<p>The word trade is deleted and the word <u>occupation</u> is added.</p>