Exempt Action: Final Regulation
Agency Background Document

Agency name	Department of Elections
Virginia Administrative Code (VAC) Chapter citation(s)	1VAC20-70-40
VAC Chapter title(s)	Alternative processing procedures for absentee ballots returned before election day.
Action title	Absentee ballot pre-processing
Final agency action date	April 13, 2022
Date this document prepared	April 19, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, 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 regulatory amendment seeks to formalize the pre-processing steps that localities took during the 2021 General Election. These processes resulted in the efficient and timely processing and reporting of absentee ballots.

For the November 2021 General Election, the Department of Elections issued instructions to the local general registrars with certain additional requirements for the pre-processing of absentee ballots. These additional requirements included mandating at least two pre-processing meetings in the seven days before Election Day and additional requirements contained in the final regulatory action.

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, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Code of Virginia § 24.2-709.1, passed by the 2021 General Assembly, makes the pre-processing of absentee ballots mandatory beginning on the seventh day immediately preceding an election. This regulatory action formalizes some of the practices that were used to pre-process absentee ballots during the November 2021 General Election.

Statement of Final Agency Action

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.

The State Board of Elections at its meeting on April 13, 2022, approved the new regulatory action, 1VAC20-70-40 titled Alternative processing procedures for absentee ballots returned before Election Day.