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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	The Virginia Department of Elections
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	1 VAC20-10
<b>VAC Chapter title(s)</b>	Public Participation Guidelines
<b>Date this document prepared</b>	March 17,2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

**ELECT:** Virginia Department of Elections

**SBE:** State Board of Elections

**Public participation guidelines:** Procedures governing public notice, comment, and other opportunities for public involvement in the regulatory process

## 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 or 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 State Board of Elections is authorized to promulgate regulations pursuant to § 24.2-103 of the Code of Virginia, which grants the Board authority to supervise and coordinate the work of local electoral boards and general registrars and to make rules and regulations to promote the proper administration of elections in the Commonwealth. This periodic review is conducted in accordance with § 2.2-4007.1 and § 2.2-4017 of the Code of Virginia and the procedures of the Office of Regulatory Management.

### Alternatives to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

During the periodic review process, ELECT considered whether the regulatory objectives could be achieved through alternatives such as guidance documents, policy memoranda, or reliance solely on statutory provisions. These alternatives were determined to be insufficient because the regulation establishes uniform procedures for public participation necessary for the consistent administration of public participation in SBE activities. Regulatory provisions ensure transparency, uniformity, and enforceability across all jurisdictions. Accordingly, the regulation remains the least burdensome and most effective mechanism for implementing the statutory requirements governing the administration of elections.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response
The League of Women Voters	The notice provisions should be expanded so that notice is provided when a regulatory advisory panel or a negotiated rulemaking panel has been appointed or dissolved.	ELECT has reviewed this comment and considered whether additional notice provisions should be added for the appointment or dissolution of regulatory advisory panels or negotiated rulemaking panels. At this time, ELECT does not recommend an amendment to this section as part of this periodic review.

### Effectiveness

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

Pursuant to § 2.2-4017 of the Code of Virginia, ELECT evaluated whether the regulation remains necessary for the protection of the public interest and whether it is written clearly and is easily understandable. ELECT finds that the regulation remains necessary because it establishes the

procedural framework through which interested persons may participate in the development, amendment, or repeal of regulations administered by the agency. By ensuring that interested persons and organizations receive notice of proposed regulatory actions and meaningful opportunities to participate in the regulatory process, the regulation promotes public welfare via transparency, accountability, and public confidence in the administration of elections in the Commonwealth. ELECT further finds that 1VAC20-10 is organized logically, uses plain and operational language, and clearly identifies the rights of interested parties as well as the agency's responsibilities for maintaining notification lists and distributing notices.

### Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

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The agency proposes minor amendments to the regulation for the purpose of improving clarity. 1VAC20-10 continues to be necessary and should be retained, but amendments are appropriate to improve clarity, update outdated references where necessary, and ensure conformity with current law, executive branch review requirements, and present agency practice. Because the chapter continues to provide the procedural foundation for public participation in the Board's regulatory actions, repeal is not warranted. The recommended amendments will enhance readability and reduce the potential for misinterpretation without altering the core regulatory framework.

### Small Business Impact

*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.*

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Pursuant to § 2.2-4007.1 E and F of the Code of Virginia, ELECT evaluated the impact of the regulation on small businesses. The regulation primarily governs public participation in SBE related matters and does not impose direct regulatory requirements on small businesses. Accordingly, the regulation has minimal economic impact on small businesses. ELECT has also determined that the regulation does not duplicate or conflict with federal or state law and remains appropriate given current technology and administrative practices.

