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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 VAC20-40
<b>VAC Chapter title(s)</b>	Ballot Treatment
<b>Date this document prepared</b>	March 20,2026

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

### 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 of 1VAC20-40 could be achieved through non-regulatory alternatives, including agency guidance documents, training materials, or reliance solely on statutory provisions. These alternatives were determined to be insufficient because the regulation establishes uniform, enforceable standards necessary for consistent statewide administration of election-related processes. Guidance documents and internal procedures lack the binding authority and transparency required to ensure compliance across all jurisdictions. Accordingly, the regulation remains the least burdensome and most effective mechanism for implementing statutory requirements and ensuring uniformity in election administration.

**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.*

Committer	Comment	Agency response
Center for Election Confidence	Section § 24.2-404(E) of the Code of Virginia requires the State Board to “promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the [Systematic Alien Verification for Entitlements] Program” once Virginia’s participation in the SAVE Program is approved. The USCIS lists the State Board as “registered with SAVE”; however, the State Board has yet to promulgate rules and regulations concerning the use of the SAVE Program. Therefore, so that election officials across the Commonwealth may use the SAVE Program to research the citizenship status of those who apply to register to vote in Virginia, CEC urges the State Board to initiate immediately the rulemaking required by § 24.2-404(E) of the Code of Virginia. CEC’s interest in this proposed action relates directly to its purpose of “advancing the role of ethics, integrity, and legal professionalism in the electoral process, including	ELECT has reviewed this comment regarding regulations related to use of the SAVE Program and recognizes that this area may require further regulatory development to address applicable statutory requirements. ELECT recommends amending to make this change.

<p>safeguarding the right of eligible voters to vote” by undertaking efforts that “increas[e] confidence in election results and election systems.” Using all available tools, especially those, like the SAVE Program, specifically required by the General Assembly, to ensure that only eligible American citizens living in Virginia are registered to vote and able to cast ballots in the Commonwealth is a key indicator for voters with respect to the trustworthiness of, and their confidence in, any election.</p> <p>The rule adopted by the State Board must, at a minimum, include provisions concerning access to the SAVE Program by both ELECT and General Registrars, the application and confirmation of results provided by the SAVE Program, and the use of such confirmed information relating to a registrant’s status as a noncitizen with respect to removal from Virginia’s voter registration lists. Further, the rule must provide registrants flagged by the SAVE Program as possible noncitizens with the ability to contest such a designation. See 1 VAC 20-40-70.</p> <p>This rule is necessary and justified not only because the General Assembly requires it, which alone constitutes sufficient need and justification, but also because it would bring into effect provisions of the Virginia Constitution, the Code of Virginia, and the Virginia Administrative Code relating to citizenship as a key voter qualification in Virginia. Such a rule would positively impact CEC because it would effect considered policy changes consistent with CEC’s mission, and the impact on Virginia voters would likewise be positive because use of the SAVE Program as an additional set of available data points for verification of the citizenship status of voter registration applicants is a common-sense effort that will pay dividends in voters’ confidence in Virginia’s election processes and outcomes. As stated in Crawford v. Marion County Election Board, Justice John Paul Stevens wrote that “public confidence in the integrity of the electoral process has independent significance because it encourages</p>	
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	citizen participation in the democratic process.”	
Lynchburg City General Registrar's Office	1VAC20-40 has a voter photo identification card application form. This type of identification is no longer issued by registrars, nor required by the state. Recommend removing the form from VAC.	ELECT has reviewed this comment and agrees that outdated references to voter photo identification card forms should be updated or removed where they no longer reflect current law or practice. ELECT recommends amendments to remove or revise obsolete references in this chapter.
Center for Election Confidence	1 VAC 20-40-60 requires the notification of election officials of a successful voter registration applicant's previous voting domicile of their registration to vote in Virginia but does not specify the form or publication of such notification. In the interest of promoting effective list maintenance, transparency, and voter confidence in the voter registration and list maintenance process (as well as to give effect to applicants' presumption that cancellation of previous registrations happens automatically, as occurs in many jurisdictions with interstate driver license transfers), CEC urges the State Board to update this section to require such notifications to previous registration jurisdictions to be sent within three (3) days of a successful applicant's request and to take a written form sufficient for compliance with the federal National Voter Registration Act's list maintenance requirements such that the previous registration jurisdiction may treat the notification as the registrant's request to be removed from their voter registration list. This may require the successful applicant to provide their signature for such request and to include such affirmation with the transmitted notification.	ELECT has reviewed this comment and considered whether additional specificity regarding the form, timing, or content of notice to a voter's prior registration jurisdiction is necessary in regulation. At this time, ELECT does not recommend an amendment to this section as part of this periodic review.
Lynchburg City General Registrar's Office	Address" or "residence address" for purposes of voter registration and address confirmation means the address of residence in the precinct required for voter registration. Citizen Portal does not validate address the voter address to exclude "P.O. Box". Despite the warning that "Residence address may not be a P.O. Box" Citizen Portal does not flag "P.O. Box" or a variant thereof from being accepted as a residence address. It does prevent an incorrect entry when a protected voter enters a	ELECT has reviewed this comment. Because the concern primarily relates to Citizen Portal system functionality rather than the regulatory text itself, ELECT does not recommend an amendment to this section as part of this periodic review.

	<p>mailing address that is not a P.O. Box on the address entry screen for a protected voter mailing address. The validation for residence address on the Citizen Portal should be reworked to prevent the entry of a P.O. Box as a residence address.</p>	
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-10 says in the last paragraph ""Voter photo identification card" means the official voter registration card containing the voter's photograph and signature referenced in § 24.2-404 (A) (3) of the Code of Virginia." 24.2-404 (A) (3) lists the things that the state provides the registrars to provide to the public. Registrars are not issued photo id equipment to make ids of this kind at this point as it is not required by code anymore. Recommend modifying or removing this paragraph.</p>	<p>ELECT has reviewed this comment and agrees that the definition of "voter photo identification card" should be revisited in light of changes in law and current practice. ELECT recommends amendments to revise or remove outdated language in this section.</p>
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-30(C) specifies that no person shall be denied registration for failure to submit a mailing address. GREB echoes this in 6.2.3. The Online Registrations Citizen Portal requires a mailing address for the online application if the applicant selects "Undeliverable or homeless". The mailing address screen is titled "Ballot Mailing Address". The functionality of the Citizen Portal should be reviewed and adjusted or 1VAC20-40-30(C) should be more specific about the case of homeless individuals.</p>	<p>ELECT has reviewed this comment. Because the concern primarily relates to Citizen Portal system functionality rather than the regulatory text itself, ELECT does not recommend an amendment to this section as part of this periodic review.</p>
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-30(C) specifies that no person shall be denied registration for failure to submit a mailing address. GREB echoes this by saying on page 15: "A mailing address is required to ensure that the voter will receive his/her registration notification and to avoid cancellation of voting eligibility due to returned mail." While this makes good sense, it is not consistent with 1VAC20-40-30 (C). Recommend updating VAC to handle this exception.</p>	<p>ELECT has reviewed this comment and considered whether the regulation would benefit from additional specificity regarding mailing-address requirements in limited circumstances. ELECT recommends amendments to clarify this section and better align the regulation with current guidance and practice.</p>
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-30(C) specifies that no person shall be denied registration for failure to submit a mailing address. GREB echoes this. The Online Registrations Citizen Portal requires a mailing address for the</p>	<p>ELECT has reviewed this comment. Because the concern primarily relates to Citizen Portal system functionality rather than the regulatory text itself, ELECT does not recommend an amendment to this section as part of this periodic review.</p>

	<p>online application if the applicant selects "Undeliverable or homeless". The mailing address screen is titled "Ballot Mailing Address". The functionality of the Citizen Portal should be reviewed and adjusted or 1VAC20-40-30(C) should be more specific.</p>	
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-40(C) says "f an application to register to vote contains all information required by law, and if any of the situations in the subdivisions of this subsection apply, the general registrar shall not deny the application, but shall ask the applicant to provide additional information in support of the application. ... In the event the applicant does not provide the requested information by the last day to register as established in § 24.2-416 of the Code of Virginia and the general registrar is unable to determine the applicant's residency through any other means, the general registrar shall deny the application in accordance with § 24.2-422 (B) of the Code of Virginia. 1VAC20-40-70(H) says "General registrars must provide the voter notice of having accepted or denied a voter registration applicant within 30 days of receiving a voter registration application." If 1VAC20-40-40(C) is followed this section may be violated.</p>	<p>ELECT has reviewed this comment and considered whether these provisions should be clarified to better align application review timelines, requests for additional information, and notice requirements. ELECT recommends amendments to clarify this section.</p>
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-70(B) 13 says Date of the application is not material, echoed by GREB 6.6.2.1. 24.2-411.2(G) says "A completed voter registration application shall be transmitted as directed by the Department not later than five business days after the date of receipt." Without a date on the application how is this confirmed? 24.2-1002.01 says "The mailing or delivery of an application shall be deemed timely for the purposes of this section if it is mailed or delivered within 10 days of the applicant's signature or in accordance with the provisions of § 24.2-416.4 for processing before the closing of the registration records for the pending election whichever comes first." 24.2-416.4 uses a postmark as a date for mailed forms, but in the event of a missing postmark or advice regarding date of receipt from the sending office what date should be used as the date of the application? If no</p>	<p>ELECT has reviewed this comment and considered whether the regulation would benefit from additional clarification regarding application dates and associated statutory deadlines. ELECT recommends amendments to clarify this provision and ensure consistency with current law.</p>

	<p>date is on the application for a third party delivered application how can the registrar enforce the 10-day limit?                  1VAC20-40-70 (H) says "General registrars must provide the voter notice of having accepted or denied a voter registration applicant within 30 days of receiving a voter registration application." Without a date on the application for the situations above how can the registrar confirm compliance with this provision. Recommend reworking either 1VAC20-40-70(B) or the other sections above for greater clarity.</p>	
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-70(I) says "General registrars may not ask for additional information regarding the applicant's restoration of rights from any applicant who indicates that his voting rights have been restored if the applicant's restoration information appears in the Secretary of the Commonwealth's database accessible to general registrars.                  1VAC20-40-70(B)(2) identifies Gender as a non-material omission from a voter application. 24.2-418(B) lists Gender as a required field.</p>	<p>ELECT has reviewed this comment and has identified the need for further review of this provision to ensure consistency with statute and agency practice, including the interaction between material omissions and restoration-of-rights procedures. ELECT recommends amendments to clarify this provision.</p>
<p>Lynchburg City General Registrar's Office</p>	<p>1VAC20-40-70(I) says "General registrars may not ask for additional information regarding the applicant's restoration of rights from any applicant who indicates that his voting rights have been restored if the applicant's restoration information appears in the Secretary of the Commonwealth's database accessible to general registrars.                  24.2-114 (6) requires "The registrar of the applicant's residence shall determine the qualification of the applicant, including whether the applicant has ever been convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored". "The "best practice" advice in GREB 8.3.3 says:                  • The information concerning a felony conviction is not always accurate. Most errors can be accounted for by administrative error, wrongful felony convictions, identity theft, or felony charges that should have been reduced to misdemeanors.</p>	<p>ELECT has reviewed this comment. Because the concern primarily relates to implementation guidance and verification practice rather than a clear defect in the regulatory text itself, ELECT does not recommend an amendment to this section as part of this periodic review.</p>

	<ul style="list-style-type: none"> <li>• Individuals have the right to challenge the record; the Virginia State Police provides information on the procedures to challenge the record.</li> <li>• You can request a criminal history search by filing a Criminal Record Name Search (Form SP-167) with the Virginia State Police. The fee for filing this request is \$15.00.</li> <li>• The Department of Elections will research to confirm accuracy of the conviction information upon request from the general registrar.</li> <li>• Once an error has been corrected through State Police procedures, the individual will receive notification of the correction from the State Police or appropriate authority. Any person who wishes to be reinstated must provide this documentation to the general registrar.</li> </ul>	
<p>The League of Women Voters</p>	<p>Paragraph A should be modified to clarify that there is only one federal agency that provides a voter registration form. Currently, that agency is the US Election Assistance Commission. Because the regulation is overly vague, replace “appropriate federal agency” with “the designated federal agency.”</p>	<p>ELECT has reviewed this comment and agrees that more precise terminology may improve clarity. ELECT recommends amendments to update this language.</p>
<p>Lynchburg City General Registrar's Office</p>	<p>General registrars must provide the voter notice of having accepted or denied a voter registration applicant within 30 days of receiving a voter registration application. Days during which registration records are closed before elections pursuant to § 24.2-416 of the Code of Virginia shall not be applicable to the calculation of the 30-day processing time. Reprints of Voter confirmation notices created by VERIS take the current date. This makes it impossible to reprint a notice with the original print date. VERIS should allow reprints of voter confirmation notices with the original date.</p>	<p>ELECT has reviewed this comment. Because the concern relates to VERIS system functionality rather than the regulatory text itself, ELECT does not recommend an amendment to this section as part of this periodic review.</p>
<p>“The Virginia Taxpayers”</p>	<p>The last 4-5 years have been a nightmare for our state and the nation because of voting irregularities caused by mail in ballots, early voting, registration irregularities, and out of state funding. Most voters on both sides do not trust the election process. The solution is to go back to one day to vote. I lived in other states and even had to work on the same day. Proper</p>	<p>ELECT has reviewed this comment. Much of the comment concerns broader election policy issues established by statute rather than by the regulation under review. To the extent the comment addresses the regulation, ELECT does not recommend an amendment as part of this periodic review.</p>

	registration with certified passport, driver license, and present-day residency status is a must for stopping the corruption.	
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**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 has evaluated the effectiveness of this regulation. The regulation remains necessary for the protection of public welfare by ensuring consistent, secure, and transparent administration of election-related processes across the Commonwealth. The provisions of 1VAC20-40 support uniform practices among local election officials, reduce ambiguity in statutory implementation, and promote public confidence in the administration of elections. ELECT has also reviewed the regulation for clarity and usability and has determined that the regulation is generally clear but is in need of amendment to improve clarity, ensure consistency with governing statutes, and better align with current election administration practices.

**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.*

Following this periodic review, ELECT has determined that 1VAC20-40 should be retained with amendments. This determination reflects the continued necessity of the regulation while recognizing the need for targeted revisions to improve clarity, ensure consistency with governing statutes, and better align with current election administration practices. The proposed amendments include both minor technical edits and substantive updates across multiple sections, including revisions to terminology and structure, clarification and expansion of communication requirements and timelines, evaluation of consolidation opportunities to reduce redundancy, review of procedures related to incomplete applications and supplemental information, and reassessment of denial timelines to ensure consistency with applicable provisions of the Code of Virginia. Collectively, these amendments are to enhance administrative efficiency, reduce ambiguity, and ensure the regulation continues to operate effectively within the Commonwealth's statutory and operational 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.*

Pursuant to § 2.2-4007.1 E and F of the Code of Virginia, ELECT has evaluated the impact of this regulation on small businesses. The regulation governs election administration by state and local election officials 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. Retaining the regulation with amendments will not increase regulatory burden and continues to support effective and consistent election administration.

