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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department of Elections
Virginia Administrative Code (VAC) Chapter citation(s)	1 VAC 20-60
VAC Chapter title(s)	Election Administration
Date this document prepared	April 28, 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.

As part of the periodic review, ELECT considered whether alternatives to the existing regulatory framework could achieve the same objectives. Alternatives evaluated included relying solely on statutory provisions, replacing regulatory language with nonbinding guidance documents, or repealing portions of the regulation deemed redundant. These alternatives were determined to be insufficient for several reasons. Election administration requires uniform statewide procedures to ensure consistent application of election laws across all jurisdictions. Reliance solely on statute would not provide the level of procedural clarity necessary to guide local election officials in the day-to-day implementation of election law. Similarly, replacing regulatory provisions with informal guidance would not provide the same level of transparency, enforceability, or stability expected in a regulatory framework. For these reasons, retaining the regulation, with amendments where appropriate to improve clarity and ensure conformity with current law and administrative structure, remains the least burdensome and most effective approach for achieving the regulatory objectives.

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
Center for Election Confidence	CEC encourages the State Board to revise 1 VAC 20-60-60 to codify the currently informal guidance concerning the timely availability of provisional ballot logs. ² The uniform availability of such information is an important transparency reform that, with this certainty, not only promotes voters’ confidence in elections (i.e., the knowledge of what information will be available and when helps to create predictability and trust) but also helps the State Board to meet the requirements of Va. Code Ann. § 24.2-103 to “supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections”. Without formalization of current	ELECT has reviewed this comment and considered whether current practice concerning the timely availability of provisional ballot logs should be reflected more expressly in regulation to promote statewide uniformity. ELECT recommends amendments to address this issue.

	guidance into regulation, each electoral board stands alone.	
Center for Election Confidence	1 VAC 20-60 contains two “material omissions” sections, at secs. 20 (referendum petitions and petition signature qualifications) and 90 (officer removal petitions and petition signature qualifications), creating the possibility or likelihood that these two, related sections may be interpreted differently or may develop differently, both on an inadvertent basis. Further, the existence of two parallel sections for related purposes creates confusion for the public and makes interpreting the requirements of 1 VAC 20-60 all the more difficult. CEC urges the State Board to consider consolidating these and all material omissions sections to ensure uniformity, understandability, and transparency.	ELECT has reviewed this comment and agrees that greater consistency among material-omissions provisions may improve clarity and uniformity. ELECT recommends amendments within this chapter as appropriate.
Center for Election Confidence	Current guidance concerning the observation of the “post-election precinct” that handles late-arriving ballots should be codified with an eye toward ensuring the greatest transparency possible and meaningful public observation of the process. The uniform ability to observe such activity is an important transparency protection that not only promotes voters’ confidence in elections (i.e., through third-party validation of public information) but also helps the State Board to meet the requirements of § 24.2-103 of the Code of Virginia to “supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections”. Without formalization of current guidance into regulation, each electoral board stands alone.	ELECT has reviewed this comment and considered whether additional regulatory language governing observation of the post-election precinct is necessary. At this time, ELECT does not recommend an amendment to this section as part of this periodic review.
Center for Election Confidence	In the interest of transparency and public confidence in the Commonwealth’s elections, CEC urges the State Board to amend 1 VAC 20-60-30, and any other	ELECT has reviewed this comment and considered whether the regulation should be amended to permit additional photography or recording in polling places. At this time, ELECT

<p>applicable rule or regulation, to permit any person authorized to be present in a polling place to capture photographs or other recordings of results tapes, security seals, and other important papers or equipment before and after the close of polls, provided that such recording would not reasonably compromise the secrecy of any voter’s ballot, disturb the peace, or meaningfully interfere with the administration of the election at that location.</p> <p>Current Section 30 cites, as authority for prohibiting “representatives of candidates and political parties authorized to observe the election” from “taking photos or videos within the polling place,” § 24.2-103 of the Code of Virginia, which sets forth the general authority of the State Board of Elections to “supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections,” further providing that the State Board’s supervision shall ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity.</p> <p>This asserted basis of authority does not rest firmly on the text of the underlying statute and should be reconsidered. Allowing persons otherwise lawfully authorized to be present within a polling location to capture photographs or other records of publicly observable information contained on results tapes, security seals, and other important papers or equipment does not present a “major risk to election integrity.” To the contrary, permitting such documentation would strengthen election integrity and public confidence by expanding transparency and enabling independent, third-party verification of officially reported information. Indeed, such a reform could be implemented in a uniform, legal, and</p>	<p>does not recommend an amendment to this section as part of this periodic review.</p>
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	<p>orderly manner across the Commonwealth, thereby promoting consistency and equal treatment among the various electoral boards. CEC therefore urges the State Board to adopt appropriate amendments to 1 VAC 20-60-30 and any other applicable rules or regulations in order to promote transparency in election administration and strengthen public confidence in the Commonwealth's elections.</p>	
<p>Center for Election Confidence</p>	<p>Section 1 VAC 20-70 contains a "material omissions" provision at Section 20 governing absentee ballots. However, the Virginia Administrative Code contains numerous separate "material omissions" provisions relating to the administration of elections, creating the possibility that related provisions may be interpreted inconsistently or may evolve differently over time, whether intentionally or inadvertently. See 1 VAC 20-45-20(B) (applications for voter registration submitted on a Federal Post Card Application or Federal Write-In Absentee Ballot), 1 VAC 20-45-40 (Federal Write-In Absentee Ballots), 1 VAC 20-50-20 (candidate petitions and petition signature qualifications), 1 VAC 20-60-20 (referendum petitions and petition signature qualifications), and 1 VAC 20-60-90 (officer removal petitions and petition signature qualifications). Further, the existence of parallel provisions serving similar regulatory purposes creates unnecessary complexity for the public and makes interpretation of the requirements contained in 1 VAC 20-70 more difficult. Maintaining multiple "material omissions" provisions across separate chapters may undermine regulatory uniformity, reduce clarity, and increase the likelihood of inconsistent application by election officials across the Commonwealth. In the interest of consistency, clarity, and transparency, CEC urges the State Board to consider consolidating these and any</p>	<p>ELECT has reviewed this comment and agrees that consistency among material-omissions provisions is a worthwhile objective. To the extent appropriate, ELECT recommends amendments to clarify this.</p>

	<p>other materially similar “material omissions” provisions into a more uniform regulatory framework. Doing so would promote consistent interpretation, improve public understanding of election requirements, and strengthen confidence in the uniform administration of Virginia’s election laws.</p>	
<p>The League of Women Voters</p>	<p>In the third sentence of paragraph B of this section, remove the words “majority of” from “within the discretion of the majority of officers of election at each polling place.”</p> <p>Ascertaining a majority requires all officers of election to consider the matter, which would disrupt the smooth functioning of a polling place and hinder voting. Officers of election have significant police powers under several sections of the Code of Virginia, e.g., § 24.2-607. Functionally, the chief officer is mainly responsible for maintaining order in the polling place.</p> <p>The appeals process described in paragraph D of this section is unworkable. As long as no voter is prevented from casting a ballot, there should be no appeals from a determination by the officers of election that an individual has violated this section of the regulations. The appeals process described would involve convening all three local electoral board members, who, in many localities, are circulating among precincts on election day. They would need to convene in person at the polling place or engage by phone or other electronic means with parties and among themselves. The process would not only interfere with the election at the polling place where the incident occurs but would deter the electoral board members from fulfilling their other obligations during the election.</p>	<p>ELECT has reviewed this comment and considered whether these provisions should be revised for greater workability on election day. At this time, ELECT does not recommend an amendment to this section as part of this periodic review.</p>

<p>Daniel Pense, Lynchburg General Registrar</p>	<p>1VAC20-60-40 (B)says that a ballot is considered cast when " A permanent record is preserved by a voter (i) pressing the vote or cast button on a direct recording electronic machine". 24.2-626(B) of the Code of Virginia says that use of a DRE is illegal after July 1, 2020. The Election Day Guide quotes 1VAC20-60-40(B) on page 6.</p>	<p>ELECT has reviewed this comment and agrees that references to direct recording electronic machines should be updated or removed to reflect current law. ELECT recommends amendments to revise this language.</p>
<p>Daniel Pense, Lynchburg General Registrar</p>	<p>1VAC20-60-50(B)(1) says "The general registrar, assistant registrars, or officers of election may remove the overflow ballots from the connected ballot container and place them in a secure container." Consider changing the word "assistant" to "Deputy" to be consistent with other code sections.</p>	<p>ELECT has reviewed this comment and agrees that terminology should be made consistent where appropriate. ELECT recommends amendments to update this language for consistency with current terminology used elsewhere in the election regulations.</p>

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.

The regulation remains necessary for the protection of the public interest and the effective administration of elections in the Commonwealth. Election administration involves coordination among numerous local officials and requires consistent procedures across all jurisdictions. The provisions contained in 1VAC20-60 support this objective by establishing administrative standards that facilitate uniform implementation of election laws. The regulation also remains clearly written and understandable. While certain provisions reference administrative structures that have since been modified by statute, these issues can be addressed through targeted amendments without altering the overall regulatory framework. Overall, the regulation continues to serve an important role in supporting the orderly administration of elections and ensuring that election officials have access to consistent administrative guidance.

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.

The agency proposes to amend the regulation. 1VAC20-60 continues to be necessary and should be retained, but minor 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. These updates 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.

Pursuant to §§ 2.2-4007.1 E and F of the Code of Virginia, ELECT evaluated the regulation's potential impact on small businesses. The regulation principally governs the administration of elections by state and local election officials and does not impose direct obligations on small businesses. Accordingly, any economic impact on small businesses is expected to be minimal. 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.