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Periodic Review and Small Business Impact Review Report of Findings

Agency name	The Virginia Department of Elections
Virginia Administrative Code (VAC) Chapter citation(s)	1 VAC20-70
VAC Chapter title(s)	Absentee Voting
Date this document prepared	March 19, 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.
State Board: Virginia State Board 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.

ELECT considered whether issues identified in this chapter could be addressed through guidance documents such as the General Registrar Electoral Board Handbook (GREB) or internal policy memoranda. While guidance can assist with implementation, it cannot resolve inconsistencies between regulatory text and statutory requirements or ensure uniform, enforceable procedures across all localities. The periodic review identified areas where regulatory language is outdated, lacks clarity, or does not fully reflect current practices and systems used in election administration, including the use of VERIS and standardized procedural workflows followed by local election officials. These issues affect the consistent execution of election-related duties across jurisdictions. As these matters require legally binding, uniform standards, regulatory amendment is necessary. Accordingly, ELECT has determined that amending the regulation is the least burdensome and most effective method to ensure clarity, consistency, and compliance with current law.

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	While 1 VAC 20-70-40(6) includes a requirement that “notice is given to the local political party chairs of the times and places for processing absentee ballots in sufficient time to allow for the authorized party representatives to be present”, it does not include a specific baseline timeliness requirement for notice. CEC recommends that the State Board update 1 VAC 20-70-40(6) to include a minimum notice requirement of twenty-four (24) business hours before a pre-processing meeting is to occur in order to ensure uniformity among electoral board practices	ELECT has reviewed this comment and considered whether the regulation should specify a minimum notice period for absentee-ballot processing. ELECT recommends amendments to clarify notice requirements in this section.
Center for Election Confidence	The provisions of 1 VAC 20-70-70 unquestionably require an “outer absentee envelope” and a “return envelope”, yet Fairfax County did not comply with these provisions in the 2024 general election, leading to ballot secrecy concerns reported widely in the news	ELECT has reviewed this comment and considered whether additional regulatory language is necessary in light of existing absentee-ballot envelope requirements. At this time, ELECT

	<p>media, a decision to the detriment of voters' confidence in the administration of elections in the Commonwealth. ELECT and the State Board must enforce the provisions of the existing regulation, but they also should consider whether the language of the regulation should be updated to prohibit expressly the use of single-envelope absentee ballot return systems to prevent a recurrence of 2024's issues.</p>	<p>does not recommend an amendment to this section as part of this periodic review.</p>
<p>Center for Election Confidence</p>	<p>Given ongoing uncertainty surrounding the permissibility of ballot collection (also referred to as "ballot harvesting") pursuant to § 24.2-707 of the Code of Virginia, CEC urges the State Board to promulgate a regulation interpreting § 24.2-707 in accordance with what CEC views as the apparent intent of the General Assembly to prohibit such third-party ballot collection, pursuant to the State Board's statutory responsibility to "ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity." § 24.2-103 of the Code of Virginia.</p> <p>CEC is interested in this reform because its mission is to "advanc[e] the role of ethics, integrity, and legal professionalism in the electoral process, including safeguarding the right of eligible voters to vote" by undertaking efforts that "increas[e] confidence in election results and election systems." In CEC's view, ballot harvesting does not increase confidence in election results and election systems because it circumvents important chain-of-custody protections for absentee and other mail ballots by allowing a third party, with their own intentions, opinions, and motivations, to intercept and transport an individual's ballot before it reaches election officials for processing.</p> <p>The purpose of the proposed regulation under § 24.2-707 would be to promote election integrity and public confidence in the Commonwealth's elections by prohibiting anyone other than a close family member from returning another person's ballot, regardless of the circumstances. Allowing otherwise, in CEC's view, creates opportunities for conduct that may undermine election integrity and diminish public confidence in election processes and outcomes, which CEC believes the General Assembly sought to address when revising § 24.2-707 of the Code of Virginia.</p> <p>Such a rule would positively impact CEC because it would effect considered policy</p>	<p>ELECT has reviewed this comment and considered whether additional regulatory interpretation is appropriate in light of existing statutory provisions and legal guidance concerning ballot collection. At this time, ELECT does not recommend an amendment to this section as part of this periodic review.</p>

	changes consistent with CEC’s mission, and the impact on Virginia voters would likewise be positive because the public could be assured that absentee ballots move directly from the voter to election officials, with only the postal service, common carriers, or a close family member intervening.	
Lynchburg City General Registrar's Office	1VAC20-70 provides copies of SB-703.1, SBE-701, and Envelope B - statement of the Absentee voter. The links for SB-703.1, SBE-701, and Envelope B - statement of the Absentee voter provided by 1VAC20-70 all appear to point to outdated forms. While there is a disclaimer present, it would be good to update these links.	ELECT has reviewed this comment and agrees that references and links to absentee forms should be updated where necessary. ELECT recommends amendments to update outdated form references in this chapter.
The League of Women Voters	Because this section requires registrars to maintain information security standards set by ELECT when they send information to third party contractors that print and mail absentee ballots, the contractors should be required by contract to maintain security standards. Although the information shared with contractors may not be sensitive (no SSNs or dates of birth), if registrars must maintain security, so should the contractors.	ELECT has reviewed this comment and considered whether additional regulatory language concerning contractor security obligations is necessary. 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 has determined that this regulation remains necessary for the protection of public health, safety, and welfare, as it establishes uniform procedures governing the conduct and administration of elections by local electoral boards and general registrars. The regulation supports consistent implementation of statutory requirements, promotes transparency and accuracy in election processes, and helps maintain public confidence in the administration of elections. ELECT further finds that, while the regulation remains generally effective, certain provisions would benefit from clarification, modernization, and alignment with current statutory requirements and operational practices. Public comments and internal review identified opportunities to improve clarity, remove outdated language, and better reflect current systems and procedures used in election administration. Overall, the regulation is reasonably clear and understandable; however, targeted amendments are warranted to enhance usability, reduce ambiguity, and ensure consistency with current law and practice.

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.

Based on the periodic review conducted in accordance with § 2.2-4007.1 and § 2.2-4017 of the Code of Virginia, ELECT recommends that 1VAC20-50 be amended. This determination is supported by the volume and substance of public comments received, which identified specific provisions that are outdated, inconsistent with current law, or in need of clarification. ELECT has determined that retaining the regulation without change would not adequately address these issues. At the same time, repeal is not appropriate, as the regulation continues to provide necessary structure and guidance for the administration of elections. Accordingly, ELECT recommends targeted amendments to update regulatory language to conform with current statutory authority, remove or revise obsolete provisions, clarify procedures to improve consistency and administrability, and ensure alignment with current systems and practices used by election officials. These amendments are intended to preserve the regulatory framework while improving clarity, efficiency, and compliance.

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 primarily governs the conduct of election administration by state and local election officials and does not impose direct regulatory requirements on small businesses. As such, 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.
