



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: J

Date: September 26, 2024

Title: First Review of Fast-Track Regulatory Action to Reduce Discretionary Requirements in 8VAC20-70

Presenter: Jim Chapman, Director of Board Relations

Purpose of Presentation

Action required by state or federal law or regulation.

Executive Summary

The Board has stated in [8VAC20-11-110](#) that the agency shall conduct a periodic review of regulations consistent with:

1. An executive order issued by the Governor pursuant to § [2.2-4017](#) of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § [2.2-4007.1](#) of the Administrative Process Act regarding regulatory flexibility for small businesses.

On June 30, 2022, Governor Youngkin issued [EO19](#) to establish procedures for executive review of proposed and final regulations pursuant to § [2.2-4013](#) and the periodic review of regulations pursuant to § [2.2-4017](#). [EO19](#), as well as the [policies and procedures](#) that implement [EO19](#), tasked agencies with reducing regulatory requirements by 25%.

VDOE staff has identified a regulatory change in 8VAC20-70 that will reduce 180 regulatory requirements by removing reference to a document incorporated by reference (or a 5.61% reduction in the agency's regulatory requirements subject to [EO19](#)).

Action Requested

Action requested at a future meeting: October 2024

Previous Review or Action

No previous review or action.

Background Information and Statutory Authority

The Board's authority to regulate pupil transportation and school buses is derived from §§ 22.1-176 and 177 of the Code of Virginia. The *Regulations Governing Pupil Transportation* (8VAC20-70) were first promulgated in 1987 and govern the transportation of children by public schools in Virginia. Two sections, 8VAC20-70-130 and 8VAC20-70-380, contain directions related to the maintenance and inspection of school buses. Specifically, those sections prescribe that all school buses shall be inspected and maintained in accordance with the *Preventive Maintenance Manual for Virginia School Buses* ("Manual"). The *Manual* contains maintenance checklists for use by schools.

VDOE staff does not think that the *Manual* needs to be a document incorporated by reference as prescribing maintenance routine, but rather is a form to be used by school divisions. By removing reference to the *Manual* and instead directing school divisions to record inspections on "prescribed inspection forms or in a format approved by the Department of Education," the *Manual's* 180 discretionary regulatory requirements could be reduced. Additionally, the *Manual* could be more accurately described as a "form" than a "document incorporated by reference."

Further, this action is necessary because [1VAC7-10-140\(D\)](#) states that "[e]ffective January 1, 2016, an agency may not incorporate one of its own documents by reference unless the agency establishes that the documents or circumstances are unique and highly unusual." This document was incorporated by reference before January 1, 2016, but should no longer be incorporated by reference because neither the document nor circumstances are unique and highly unusual.

The action is expected to be noncontroversial because this does not change underlying Board policy but rather reclassifies a document.

Stakeholder Engagement

The regulatory changes in this action are not designed to change underlying Board policy but rather to achieve regulatory reduction and make the Board's policy clearer to the public. VDOE staff has consulted with the Office of the Attorney General regarding these changes.

Implementation and Communication

Upon the Board's approval, these regulatory actions will be submitted to the Registrar of Regulations for publication in accordance with the Administrative Process Act.

Impact on Fiscal and Human Resources

There is no fiscal or human resource impact resulting from this regulatory action.