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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation(s)	6 VAC 20-20
Regulation title(s)	Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers
Action title	Review of Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers
Date this document prepared	10/2/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers (6VAC20-20) governs the minimum training requirements for entry level law-enforcement officers. This regulatory action is intended to correct outdated Code references, clarify confusing language and modify language to include current business practices.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Department of Criminal Justice Services and the Criminal Justice Services Board

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;...

... 4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers; ...

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The regulation identifies the requirements for entry level law-enforcement officer training. The proposed regulatory action corrects outdated Code citations and clarifies confusing language. Identifying the correct Code citations relevant to minimum training standards protects the health, safety, welfare of law-enforcement officers, certified training academy staff and the public by ensuring the correct statutory requirements are applied as it relates to training.

DCJS has initiated the process for selecting a vendor to conduct a job task analysis for entry-level law enforcement. The job task analysis, review, revision, and implementation of the training requirements are expected to take approximately two years to complete. The results of the job task analysis may identify areas of the regulation that need to be modified.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The definition of the terms certified training academy and compulsory minimum training standards were modified to coincide with the definitions of these terms in other DCJS/Board regulations.

Reference(s) to the training manual and DCJS website have been removed. DCJS was advised by Legislative Services staff that including a reference to the training manual in the regulation made the training manual a document incorporated by reference. The training standards for all fields regulated by DCJS and the Board are revised in a number of circumstances including but not limited to when there is a change in the Code of Virginia, case law, best practice, and upon the completion of a job task analysis. A document incorporated by reference can only be revised when amended through the regulatory process. The regulatory process can take several years to complete and this process is not conducive to ensuring public safety officers including law enforcement officers receive current training in a timely manner.

In 2001, Title 9 was re-codified to Title 9.1. and although a fast-track action was completed in July of 2013 for 6VAC20-20, the Code citations were not updated at that time.

- 9-170 is now 9.1-102
- 9-169 is now 9.1-102
- 9-173 is now 9.1-116
- 9-181 is now 9.1-114

Language has been modified to coincide with the process for granting an extension for completion of training to make the language consistent with other DCJS/Board regulations.

Language has been added to clarify the requirements for joining or leaving a regional academy.

Language has been added to allow the department to suspend or revoke the approval of a previously sanctioned training.

Language has been added requiring law enforcement officers to attain a minimum score of 70% on the state law enforcement certification examination, for each graded category identified in 6VAC20-20-21.

Language referencing the DCJS electronic records management system has been included. Language was modified to state training reports shall be submitted within 60 days. The current language requires submission of the report within 30 days but this is not consistent with the current practice.

A new section was created to include a cross reference to in-service requirements. The cross reference is intended to ensure law enforcement officers are aware there is an in-service requirement and directs individuals to [6VAC20-30](#) Rules Relating to Compulsory in-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no other alternatives. This regulation remains necessary as the Code of Virginia requires the department under the direction of the Board to establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Barbara Peterson-Wilson, mailing address: 1100 Bank Street, phone number: 804-225-4503, fax number: 804-786-0410, and email address: Barbara.Peterson-Wilson@dcjs.virginia.gov**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Periodic review and small business impact review report of findings

If this NOIRA is the result of a periodic review/small business impact review, use this NOIRA to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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.

Commenter	Comment	Agency response

No public comments were received during the periodic review.

The regulation is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation remains necessary as the Code of Virginia requires the Department under the direction of the Board to establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training.

No comments or complaints have been received regarding this regulation.

This regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

The regulation was last reviewed in 2013.