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Fast-Track Regulation Agency Background Document

Agency name	State Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8 VAC20-740 [Repeal]; 8 VAC20-720 [Amend]
VAC Chapter title(s)	Regulations Governing Nutritional Standards for Competitive Foods Available for Sale in the Public Schools [8VAC20-740]; Regulations Governing Local School Boards and School Divisions [8VAC20-720];
Action title	Repeal and Amend of Regulations Following Periodic Review
Date this document prepared	September 24, 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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action, which follows a Periodic Review, intends to repeal the Regulations Governing Nutritional Standards for Competitive Foods Available for Sale in the Public Schools (8VAC20-740). The underlying statutory requirements of Chapter 740 will be retained by amending Chapter 720. Chapter 740 was promulgated in 2017, and the statutory environment in which it originally grew has changed.

The underlying regulatory requirement of Chapter 740 will be retained under Chapter 720 to provide guidance to school nutrition directors. Chapter 740 has a few relevant regulatory requirements—namely the criteria for applicability; nutrition standards; exemption to the nutrition standards for school-sponsored fundraisers, and implementation and compliance—that should be updated and retained under Chapter

720. By retaining the remaining regulatory definitions in section 10 and regulatory provisions in the new section 70 of Chapter 720, the regulations will continue to provide guidance that is referenced by the state agency to ensure that the school nutrition programs are compliant with state and federal regulations. Retaining the underlying statutory requirements in Chapter 720 is necessary as school nutrition directors often ask if there are regulations that governing nutritional standards for competitive foods available for sale in the public schools, as these requirements are detailed in state statute and in the federal regulations.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Board" means the Virginia Board of Education.

"Department" means the Virginia Department of Education.

"USC" means the United States Code.

"CFR" means the Code of Federal Regulations.

"PL" means the Federal Public Law.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On September 24, 2026, the State Board of Education adopted the repeal of 8VAC20-740 (Regulations Governing Nutritional Standards for Competitive Foods Available for Sale in the Public Schools) and the amendment to 8VAC20-720 (Regulations Governing Local School Boards and School Divisions).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

This Fast Track regulatory action was initiated following a Periodic Review of the chapter.

This rulemaking is expected to be noncontroversial and thus appropriate for the fast-track rulemaking process because it is repealing regulatory language which no longer reflects current statutory requirements found in the Code of Virginia and is streamlining the Board's regulatory catalog. This action is not expected to change practice in schools.

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 and 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 Board's overall regulatory authority is found § 22.1-16 of the Code of Virginia, which states that "[t]he Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of [Title 22.1 of the Code of Virginia]."

Section 22.1-207.4 of the Code Virginia requires the Board to have regulations to implement the nutritional guidelines for competitive foods.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The rationale for this regulatory change is to eliminate a distinct regulatory chapter subject to periodic review but retain the underlying statutory requirements in 8VAC20-720.

Following a Periodic Review of this chapter, the State Board of Education identified this chapter as unnecessary as an independent chapter for public health, safety, and welfare. The underlying statutory requirements being retained in Chapter 720 are necessary for the public health, safety, or welfare because it sets needed, relevant standards which seek to ensure that the necessary regulations governing nutritional standards for competitive foods available for sale in the public schools are maintained.

The goal of this regulatory change is to repeal Chapter 740 and retain provisions that still reflect current policy under Chapter 720.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action is intended to implement the Board's decision in the chapter's most recent periodic review.

Section 10, definitions, will be repealed and the necessary definitions will be retained in section 10 of Chapter 720.

Section 20, applicability, will be repealed and the requirements outlining applicability will be retained in section 70 of Chapter 720.

Section 30, nutrition standards, will be repealed but the federal and state requirements will be retained in Section 70 of Chapter 720.

Section 35, exemption to the nutrition standards for school-sponsored fundraisers, will be repealed and the necessary requirements for exemption will be retained in Section 70 of Chapter 720.

Section 40, implementation and compliance, will be repealed and the necessary requirements for implementation and compliance will be retained in Section 70 of Chapter 720. The Forms section of Chapter 740 will be repealed as forms will not be necessary with this change.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage to the public and the Commonwealth is that the regulation will be consistent with the current statutory language and provide accurate information to individuals or entities referring to the material. There are no disadvantages to the public or Commonwealth.

There are no other pertinent matters of interest to the regulated community, government officials, or the public.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

The repeal of Chapter 740 and the amendment to Chapter 720 will not result in a requirement that is more restrictive than the applicable federal requirements. This repeal and amendment will result in the consolidation of regulations around a common regulant population and retain the underlying regulations governing nutritional standards for competitive foods available for sale in public schools.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

None

Localities Particularly Affected

None

Other Entities Particularly Affected

None

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	No projected economic impact exists on the State Board of Education or the Virginia Department of Education.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There is no projected economic impact anticipated by other agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	There is no projected economic impact anticipated by other agencies.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	There are no localities that will be affected by change.
Benefits the regulatory change is designed to produce.	The regulatory action will conform the regulatory requirements to the underlying statutory requirements of the Code of Virginia.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	There are no other entities that will be affected by this change.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small	There are no other entities that will be affected by this change.

business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There are no other entities that will be affected by this change.
Benefits the regulatory change is designed to produce.	The regulatory action will conform to the regulations of the Code of Virginia and eliminate a distinct chapter subject to periodic review.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

No alternatives to this regulation were considered, as the regulations are required by statute.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

There is a continued need for the underlying regulations governing nutritional standards for competitive foods available for sale in the public schools by consolidating the regulations in Chapter 720. The repeal of Chapter 740 and the amendment to Chapter 720 will not result in a requirement that is more restrictive than the applicable state and federal requirements. This repeal and amendment will result in the

consolidation of regulations around a common regulant population. The requirement for school boards to comply with the provisions of the state statutes and federal requirements will be retained in 8VAC20-720.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The State Board of Education is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by email to [Jim Chapman, Director of Board Relations, at Jim.Chapman@doe.virginia.gov](mailto:Jim.Chapman@doe.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-	New chapter-section	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
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section number	number, if applicable		
8VAC20-740-10		Definitions. This section establishes the key terms used throughout Virginia's <i>Regulations Governing Nutritional Standards for Competitive Foods Available for Sale in Public Schools</i>.	Change: Retains only those definitions needed for the revised consolidated regulation and removes terms that are no longer relevant after repeal of Chapter 740. Intent: To streamline terminology, remove duplication with federal definitions, and ensure consistency across DOE nutrition-related regulations. Rationale: Many terms in the current chapter either duplicate federal definitions or are no longer necessary once the broader chapter is repealed. Simplifying the definitions improves clarity and reduces regulatory burden. Likely impact of new requirements: Minimal operational impact; schools and divisions continue using familiar terms but with reduced redundancy. Improved clarity supports easier compliance and interpretation by local education agencies.
8VAC20-740-20		Applicability. This section applies to all Virginia public schools and school food authorities and covers foods sold to students during the school day on campus, such as vending, a la carte, school-run stores, fundraisers, and culinary program sale.	Change: Clarifies to whom and what the revised regulation applies, narrowing the scope to the retained requirements rather than the full structure of Chapter 740. Intent: To ensure the revised regulation only governs the essential elements related to competitive foods and fundraisers that remain after the repeal. Rationale: Repealing the chapter requires adjusting applicability to match the smaller set of retained requirements, preventing confusion about requirements that no longer exist. Likely impact of new requirements: Increased clarity for school divisions regarding when the standards apply; reduced administrative confusion and fewer questions regarding obsolete sections.
8VAC20-740-30		Nutrition standards. Competitive foods sold to students during the school day must follow the Dietary Guidelines for Americans and meet all nutrient limits while also being whole-grain rich, containing a major food	Change: Retains the core federal-aligned nutrition standards for competitive foods and beverages, as previously required by law, while removing duplicative or unnecessary regulatory text. Intent: To preserve compliance with the

		group as the first ingredient, or providing at least a quarter cup of fruit or vegetable.	statutory requirement that Virginia regulations mirror federal Smart Snacks standards while making the regulation more concise. Rationale: DOE must maintain consistency with §22.1-207.4 and federal requirements, but the existing chapter contains language that duplicates federal law or is unnecessary for state-level regulation. Likely impact of new requirements: No substantive change to operational practice; schools already follow these federal standards. Reduction in regulatory length should simplify school nutrition program oversight and compliance documentation.
8VAC20-740-35		Exemption to the nutrition standards for school-sponsored fundraisers. Public schools may hold up to 30 school-sponsored fundraisers each year during regular school hours in which foods or beverages that do not meet the nutrition standards may be sold to students, though school divisions may choose not to allow these exemptions or may adopt stricter rules under their local wellness policies.	Change: Retains the existing authority for up to 30 exempt fundraisers per year but relocates and simplifies the language for clarity and consistency. Intent: To maintain the exemption option while removing extraneous language and ensuring the rule is easier for schools to understand and apply. Rationale: The exemption allowance is required by law and is widely used. Schools benefit from having a clear, straightforward rule without additional interpretive text. Likely impact of new requirements: No change in allowable practice; clearer guidance supports more consistent counting and documentation of exempt fundraisers across divisions.
8VAC20-740-40		Implementation and compliance. Local school boards must adopt the nutrition standards in this chapter as a required part of their divisionwide wellness policies, which must also identify leadership responsible for enforcement, set goals for nutrition education and physical activity, and ensure that only foods meeting the standards are marketed on campus.	Change: Retains the Department's oversight responsibilities while removing references that pertain to discontinued sections of the repealed chapter. Core compliance expectations remain unchanged. Intent: To maintain DOE's statutory responsibility for monitoring compliance with nutrition standards without carrying forward outdated or duplicative requirements. Rationale: DOE must retain a mechanism to ensure adherence to federal and state requirements, but the repeal allows for streamlining and modernization of compliance language.

			Likely impact of new requirements: Minimal impact on school divisions; compliance processes remain consistent. DOE may benefit from reduced administrative complexity in monitoring and communication.
8VAC20-740-FORMS		FORMS This section simply identifies the official documents associated with the regulations governing nutritional standards for competitive foods, specifically the Policy Statement for Providing Free and Reduced-Price Meals to Students and the Permanent Agreement to Participate in the School Nutrition Program, both provided as web-based forms effective January 2026.	Change: Removes forms specific to the repealed chapter, no necessary forms are carried forward or referenced elsewhere. Intent: To eliminate outdated or unnecessary forms and align with the streamlined regulation. Rationale: Forms created for the broader, now-repealed chapter are no longer needed, and reduces burden on school divisions. Likely impact of new requirements: Less paperwork and fewer unnecessary submissions; streamlined administrative processes for divisions and the Department.
	8VAC20-720-70		Change: Chapter 740 is fully repealed, and its necessary definitions, nutrition standards, applicability criteria, fundraiser exemptions, and compliance provisions are relocated to Chapter 720, section 10 and section 70. The redundant, outdated, or duplicative regulatory language is removed, including unnecessary definitions and forms previously tied to Chapter 740. Intent: To streamline and modernize DOE's regulatory framework by consolidating requirements into a single chapter that aligns with current statutory and federal regulations. To simplify guidance for school divisions and nutrition directors by keeping only essential, up to date provisions. Rationale: Periodic Review identified Chapter 740 as unnecessary as a standalone chapter, given changes in the legal environment and overlap with federal standards. The statutory requirements underpinning Chapter 740 must still be maintained, but they can be effectively housed within Chapter 720. This repeal reduces duplication, improves clarity, and supports a more efficient regulatory structure.

			Likely impact of new requirements: Minimal operational impact: schools already comply with federal Smart Snacks standards, and existing practices will continue unchanged. School divisions will experience improved clarity and reduced administrative burden through simplified language and fewer outdated references or forms. There are no disadvantages or additional costs for schools, localities, or the Commonwealth are anticipated.
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If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but *changes have been made since the emergency regulation became effective*, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage