



VIRGINIA

REGISTER OF REGULATIONS

VOL. 40 ISS. 10

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

January 1, 2024

TABLE OF CONTENTS

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Register Information Page | 899 |
| Publication Schedule and Deadlines | 900 |
| Petitions for Rulemaking | 901 |
| Periodic Reviews and Small Business Impact Reviews | 904 |
| Notices of Intended Regulatory Action | 911 |
| Regulations | 913 |
| 4VAC20-770. Piankatank River Management Area (Final) | 913 |
| 4VAC20-780. Patent Tong Restrictions (Final)..... | 913 |
| 4VAC20-790. Open Public Oyster Rocks, Pocomoke Sound (Final)..... | 913 |
| 4VAC20-810. Opening of John East Turn and Poynter Rocks and Closing Beaseley Bay Rock and Deep Creek Channel, Buoy No. 7 (Final) | 913 |
| 4VAC20-830. A Change in the Oyster Cull Size for Oysters Harvested from Russ Rock, Rappahannock River (Final)..... | 914 |
| 4VAC20-850. Expansion of the Jail Island Clean Cull Area (Final) | 914 |
| 4VAC20-860. A Change in the Oyster Cull Size for Oysters Harvested from Little Carters Rock, Rappahannock River (Final) | 914 |
| 18VAC90-70. Regulations Governing the Practice of Licensed Certified Midwives (Final)..... | 914 |
| 18VAC110-20. Regulations Governing the Practice of Pharmacy (Final) | 921 |
| 19VAC30-70. Motor Vehicle Safety Inspection Regulations (Final) | 923 |
| 19VAC30-101. Regulations Governing Purchases of Handguns within a 30-Day Period (Final)..... | 944 |
| Guidance Documents | 947 |
| General Notices | 948 |

Virginia Code Commission

<http://register.dls.virginia.gov>

THE VIRGINIA REGISTER OF REGULATIONS (USPS 001-831) is published biweekly for \$263.00 per year by Matthew Bender & Company, Inc., 3 Lear Jet Lane, Suite 102, P.O. Box 1710, Latham, NY 12110. Periodical postage is paid at Easton, MD and at additional mailing offices. POSTMASTER: Send address changes to The Virginia Register of Regulations, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposed regulation in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety, and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar of Regulations no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his

authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virginia.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards, Chair; James A. Leftwich, Jr., Vice-Chair; Ward L. Armstrong; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougale; Christopher R. Nolen; Steven Popp; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade; Wren M. Williams.**

Staff of the Virginia Register: **Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Senior Regulations Analyst.**

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

January 2024 through January 2025

| <u>Volume: Issue</u> | <u>Material Submitted By Noon*</u> | <u>Will Be Published On</u> |
|----------------------|------------------------------------|-----------------------------|
| 40:11 | December 27, 2023 | January 15, 2024 |
| 40:12 | January 10, 2024 | January 29, 2024 |
| 40:13 | January 24, 2024 | February 12, 2024 |
| 40:14 | February 7, 2024 | February 26, 2024 |
| 40:15 | February 21, 2024 | March 11, 2024 |
| 40:16 | March 6, 2024 | March 25, 2024 |
| 40:17 | March 20, 2024 | April 8, 2024 |
| 40:18 | April 3, 2024 | April 22, 2024 |
| 40:19 | April 17, 2024 | May 6, 2024 |
| 40:20 | May 1, 2024 | May 20, 2024 |
| 40:21 | May 15, 2024 | June 3, 2024 |
| 40:22 | May 29, 2024 | June 17, 2024 |
| 40:23 | June 12, 2024 | July 1, 2024 |
| 40:24 | June 26, 2024 | July 15, 2024 |
| 40:25 | July 10, 2024 | July 29, 2024 |
| 40:26 | July 24, 2024 | August 12, 2024 |
| 41:1 | August 7, 2024 | August 26, 2024 |
| 41:2 | August 21, 2024 | September 9, 2024 |
| 41:3 | September 4, 2024 | September 23, 2024 |
| 41:4 | September 18, 2024 | October 7, 2024 |
| 41:5 | October 2, 2024 | October 21, 2024 |
| 41:6 | October 16, 2024 | November 4, 2024 |
| 41:7 | October 30, 2024 | November 18, 2024 |
| 41:8 | November 13, 2024 | December 2, 2024 |
| 41:9 | November 27, 2024 | December 16, 2024 |
| 41:10 | December 11, 2024 | December 30, 2024 |
| 41:11 | December 25, 2024 | January 13, 2025 |
| 41:12 | January 8, 2025 | January 27, 2025 |

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Agency Decision

Title of Regulation: 2VAC5. None specified.

Statutory Authority: §§ 2.2-4007.02 and 3.2-109 of the Code of Virginia.

Name of Petitioner: Animal partisan.

Nature of Petitioner's Request: The petitioner requests that the Board of Agriculture and Consumer Services promulgate regulations setting minimum standards of care for the transportation, handling, and lairage of poultry prior to slaughter within the Commonwealth.

Agency Decision: Request denied.

Statement of Reason for Decision: The Board of Agriculture and Consumer Services voted to deny the petitioner's request for rulemaking for the following reasons:

Many of the concerns and recommendations put forth by the petitioner are already addressed through the poultry industry's implementation of audited welfare standards adopted by the National Chicken Council, the National Turkey Federation, and the United Egg Producers. Maintaining the health and well-being of flocks is a priority for the poultry industry in order to deliver the best products and practices that meet consumers' expectations.

In addition, Virginia already has enacted robust animal welfare laws that subject perpetrators of animal cruelty to criminal prosecution. Prosecution for criminal animal cruelty addresses many of the petitioner's concerns for inhumane handling of poultry during transport and lairage.

Finally, promulgating the regulations that the petitioner suggests would negatively impact interstate commerce between Virginia and the poultry industries of neighboring states, such as West Virginia, Maryland, Delaware, and North Carolina. Because these neighboring states have not promulgated similar regulations to those suggested by the petitioner, adopting such regulations in Virginia would disrupt the ease of doing business across state lines.

Agency Contact: Dr.Carolynn Bissett, Program Manager, Office of Veterinary Services, Department of Agriculture And Consumer Services, Oliver Hill Building, 102 Governor Street, Richmond, VA, 23219, telephone (804) 786-4560, or email carolynn.bissett@vdacs.virginia.gov.

VA.R. Doc. No. PFR24-21; Filed December 7, 2023, 2:39 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Agency Decision

Title of Regulation: 9VAC25-31. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Name of Petitioner: Andy Cortez.

Nature of Petitioner's Request: On July 12, 2023, the Department of Environmental Quality received Andy Cortez's petition to the State Water Control Board to regulate commercial fishing vessel pump water as a point source pollutant due to vacuum pump water containing dissolved organic matter, including nitrogen, phosphorous, suspended solids, and high biochemical oxygen demand (BOD). The petitioner asserts that the discharge is not in compliance with § 62.1-44.2 or 62.1-44.5.9 A 1 3 of the Code of Virginia or 9VAC25-31-50 A 1 or A 2 and formally requests that the board amend the existing Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations (9VAC25-31) or develop a new regulation.

Agency Decision: Request denied.

Statement of Reason for Decision: At the November 30, 2023, meeting of the State Water Control Board, staff presented the board with information on the petition and a summary of the comments received on the petition during the public comment period. The petition states that vacuum pumps are used to transfer netted fish and seawater from a waterbody into a hopper on the ship, the water is discharged overboard from the hopper via a pipe, and the fish are emptied into the hold of the ship. There is no addition of any pollutant or combination of pollutants to surface waters through the discharge of the vacuum pump water; therefore, discharges would not be considered a discharge of a pollutant per federal law and the Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31). This is consistent with the ruling in the North Carolina Coastal Fisheries Reform Group v. Capt. Gaston LLC et al. (76 F.4th 291 (4th Cir. 2023)) where returning bycatch to the ocean was not considered a discharge of a pollutant. The board voted to not initiate a rulemaking in response to the petition.

Agency Contact: Joseph Bryan, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA, 23218, telephone (804) 659-2659, or email joseph.bryan@deq.virginia.gov.

VA.R. Doc. No. PFR24-20; Filed December 4, 2023, 1:03 p.m.

Petitions for Rulemaking

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

Agency Decision

Title of Regulation: 24VAC35-60. Ignition Interlock Program Regulations.

Statutory Authority: § 18.2-270.2 of the Code of Virginia.

Name of Petitioner: Cynthia Hites.

Nature of Petitioner's Request: "Under 2.2-4007 I submit the following petition including attached documents:

July 2012: VASAP Interlock Inception. Paradoxically, the Virginia interlock performance standard was set as "alcohol specific", and the design standard was set as the fuel cell. (24VAC35-60-70 "the machines shall be specific to alcohol", 24VAC35-60-20 "Alcohol is defined as ethanol (C₂H₅OH)")

August 2020: Virginia Townhall Form: TH-02 "Section 24VAC35-60-70(F)(3) removes the reference to ignition interlocks being "alcohol specific" to prevent the public from assuming the device only detects ethanol to the exclusion of other types of alcohol."

January 2021: Virginia Townhall, Form: TH-03: "VASAP recognizes that ignition interlocks can detect alcohols other than ethanol..."

March 2021: VASAP removes Virginia's interlock performance standard: "The term "alcohol specific" is being deleted to remove any suggested claim that interlocks will only detect ethanol", Virginia Register of Regulations Volume 37, Issue 14, p

December 2021: Minutes of Quarterly VASAP Meeting, Chief Legislative Officer for Lifesafer, "Mr. Ken Denton clarified that ignition interlocks are screening devices unlike evidentiary breath alcohol machines..."

I submit the addition of the following verbiage to the end of 24VAC35-60-70(F)(5): "Under no circumstance shall ignition interlock test results be used as evidence of noncompliance."

An ignition interlock device (IID) "prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds .02%." (§18.2-270.1) If the IID test result is under .02% BrAC, the car is allowed to start. If the IID test result is over .02% BrAC, the car's engine will not start. This is the breadth and scope of the ignition interlock; it either allows the driver to start the car or it doesn't.

The IID fulfills the intent of the law, in its limited capacity as a preliminary breath test (PBT) for ethanol, by locking the ignition when a certain level of alcohol is detected. The only function of the device is to either lock the car's ignition or allow

it to start. That is the punishment, and interlock *installation* is the compliance. This device will always stop the drunk driver from starting the car.

VASAP has criminalized a screening device by using IID readings as evidence of noncompliance. Chief Legislative Officer for Lifesafer "Mr. Ken Denton clarified that ignition interlocks are screening devices unlike evidentiary breath alcohol machines..." (12/2021 VASAP Quarterly Meeting minutes)

VASAP's IID program was based on the false premise that IID devices detect only alcohol. This is not true, as they detect many hydroxyl compounds, aka "alcohols". Sober people can receive failed readings for all sorts of causes, beyond their control, due to sources other than consumed alcohol. Routine metabolic processes and biomarkers for disease are just a few causes of sober failed readings.

Virginia Townhall August 2020 states: "Section 24VAC35-60-70(F)(3) removes the reference to ignition interlock being "alcohol specific" to prevent the public from assuming the device only detects ethanol to the exclusion of other types of alcohol." In January 2021 it was revealed on the same public forum that "VASAP recognizes that ignition interlocks can detect alcohols other than ethanol...The term "alcohol specific" is being deleted to remove any suggested claim that ignition interlocks will only detect ethanol".

In March of 2021, the law was changed to be even more deceptive. The required performance standard of being "alcohol specific" was removed, and the law now implies interlocks react to and measure only ethanol, neither of which is true.

It's also very important to understand that just because an interlock is calibrated for ethanol doesn't mean it can't detect other compounds at failing levels. In this case, being properly calibrated merely means that when ethanol is detected, the reading will be accurate. It doesn't mean the instrument detects only ethanol.

These devices are being grossly misused but the solution is simple and cost effective. No IID readings can be used as evidence against someone. Interlocks are not rolling breathalyzers that have the capability of determining alcohol consumption. They interlock with the ignition if one or more hydroxyl compounds are detected; their function ceases once the ignition is on.

These instruments detect many compounds, that's why they're just screening devices for alcohol. VASAP has removed the standard for IIDs to be "alcohol specific" because the fuel cell cannot meet it, yet they are still holding Virginians to that standard, and this is unethical. Interlock readings cannot be used as evidence of noncompliance.

The VASAP IID User Agreement requires users to sign a document stating "Breath tests above the fail point...are

considered violations", yet VASAP now understands it cannot be assumed a failed reading is due to ethanol.

Fuel cells are very sensitive to and very accurate for hydroxyls. They will lock the car every time a breath sample over .02% BrAC is registered, but IIDs can *never* determine which compound(s) within the alcohol family are being detected. Fuel cells can't qualify compounds, therefore can't quantify compounds.

In 2021, according to FOIA, there were 7,889 IIDs installed in Virginia. During this same timeframe, according to the 2021 VASAP Annual Executive Summary, there were 6,843 requests for secondary interlock reviews. This is an 86% failure rate. In 2022 there were 7,474 IIDs installed (FOIA) and 6,378 secondary reviews. (2022 VASAP Annual Executive Summary) This is an 85% failure rate.

These statistics are astronomically high and unacceptable, any way you interpret them. Either you have thousands of people trying to drive drunk with an interlock, which is bad, or you have thousands of fails for non-consumed alcohol, which is bad.

The fuel cell has extremely limited capability, and an interlock can only be used according to the law; as a screening lockout device. VASAP has been going above and beyond the law to keep people on the interlock in perpetuity by using failed readings as evidence.

The readings from this instrument do not qualify as an evidential breath test (EBT) because it's just a PBT. VASAP should never restart anyone's 6 month interlock time based on a failed IID reading because it can, knowingly, be a false positive for ethanol.

Interlocks can only be installed for a predetermined length of time because failed readings are expected with a non-alcohol specific device, and now VASAP admits the interlock is non-alcohol specific. They quietly changed the law to reflect this, but are still penalizing people for failed IID readings they know can be generated from many compounds other than drinking alcohol.

VASAP has monetized the interlock requirement by criminalizing readings from a screening device. This entire program is based on the DUI catching, alcohol-specific fallacy when the ignition interlock is just a DUI *preventing* lockout device that should be installed only for a predetermined duration.

Humbly submitted,

Cynthia Hites"

Agency Decision: Request denied.

Statement of Reason for Decision: During its December 8, 2023, meeting, the Commission on the Virginia Alcohol Safety Action Program denied this petition, taking no action for the following reason:

The petitioner's recommendation to add the language "under no circumstance shall ignition interlock test results be used as evidence of non-compliance" to 24VAC35-60-70 F 5 contradicts § 18.2-270.1 of the Code of Virginia, which requires a minimum of six consecutive months without alcohol-related violations of the interlock requirements.

In addition, the petitioner's recommendation contradicts multiple court orders throughout the Commonwealth requiring alcohol-related events, on an ignition interlock device, to be returned to the court as violations.

Agency Contact: Christopher Morris, Special Programs Coordinator, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA, 23219, telephone (804) 786-5895, or email chris.morris@vasap.virginia.gov.

VA.R. Doc. No. PFR24-22; Filed December 11, 2023, 9:13 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 1. ADMINISTRATION

COMMISSION ON LOCAL GOVERNMENT

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **1VAC50-11, Public Participation Guidelines**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins January 1, 2024, and ends January 22, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: LeGrand Northcutt, Senior Policy Analyst, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 310-7151, or email legrand.northcutt@dhcd.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commission on Local Government conducted a periodic review and a small business impact review of **1VAC50-20, Organization and Regulations of Procedure**, and determined that this regulation should be retained as is. The commission is publishing its report of findings dated November 3, 2023, to support this decision.

The regulation is necessary to uniformly and effectively govern the process by which the commission considers cases and proceedings. The commission will retain the regulation without amendment. There was no public comment regarding changes to the regulation.

The regulation is not overly complex. The regulation does not overlap state law or regulation and includes specific reference to the Code of Virginia where applicable. The regulation was last evaluated in 2017.

Contact Information: LeGrand Northcutt, Senior Policy Analyst, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 310-7151, or email legrand.northcutt@dhcd.virginia.gov.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Criminal Justice Services Board will conduct a periodic review and a small business impact review on **6VAC20-160, Regulations Relating to the Court-Appointed Special Advocate Program (CASA)**. The Notice of Intended Regulatory Action, which is published in this issue of the Register, serves as the notice of announcement of the reviews.

Contact information: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, or email kristi.shalton@dcjs.virginia.gov.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Board for Asbestos, Lead, and Home Inspectors conducted a periodic review and a small business impact review of **18VAC15-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 8, 2023, to support this decision.

The board's public participation guidelines mirror the Department of Planning and Budget's (DPB's) model public participation guidelines. The guidelines, having the status of a regulation, are necessary to promote public involvement in the development, amendment, or repeal of regulations. Further, the regulation is clearly written and understandable.

On November 30, 2023, the board voted to retain this regulation without amendment. The regulation continues to mirror the model public participation guidelines from DPB.

Periodic Reviews and Small Business Impact Reviews

There is a continued need for this regulation because it promotes public involvement in the development, amendment, or repeal of the regulations of the board. The board did not receive any comments or complaints during the public comment period. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations. The regulation was last evaluated in 2019 and does not rely on technology, economic conditions, or any other factors due to the nature of public participation. This regulation outlines the Virginia Regulatory Town Hall as the mechanism for notification, registration, and meeting procedures for public participation. The board determined that this regulation has no economic impact on small businesses.

Contact Information: Tanya Pettus, Administrator, Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-1795, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Board for Asbestos, Lead, and Home Inspectors conducted a periodic review and a small business impact review of **18VAC15-20, Virginia Asbestos Licensing Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 8, 2023, to support this decision.

The regulation contains the requirements for (i) obtaining a license or training program accreditation, (ii) renewal of licenses and accreditations, (iii) standards of professional conduct to ensure competence and integrity of all regulants, and (iv) administering the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On November 30, 2023, the board voted to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 of the Code of Virginia mandates the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who and firms that meet specific criteria set forth in the statutes and regulations are eligible for licensure as an (i) asbestos worker, (ii) asbestos supervisor, (iii) asbestos inspector, (iv) asbestos management planner, (v) asbestos project designer, (vi) asbestos project monitor, (vii) asbestos contractor, or (viii) asbestos analytical laboratory; or approval as an accredited asbestos training program. The board is also

tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

There were no comments or complaints received during the public comment period. The regulation is clearly written, easily understandable, and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

Contact Information: Tanya Pettus, Administrator, Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-1795, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Board for Asbestos, Lead, and Home Inspectors conducted a periodic review and a small business impact review of **18VAC15-30, Virginia Lead-Based Paint Activities Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 8, 2023, to support this decision.

The regulation contains the requirements for (i) obtaining a license or training program accreditation, (ii) renewal of licenses and accreditations, (iii) standards of professional conduct to ensure competence and integrity of all regulants, and (iv) administering the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On November 30, 2023, the board voted to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 of the Code of Virginia mandates the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals and firms that meet specific criteria set forth in the statutes and regulations are eligible for licensure as a (i) lead worker, (ii) lead project designer, (iii) lead supervisor, (iv) lead inspector, (v) lead risk assessor, or (vi) lead contractor; or approval as an accredited lead training program. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation. The regulation is clearly written, easily understandable, and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

Periodic Reviews and Small Business Impact Reviews

Contact Information: Tanya Pettus, Administrator, Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-1795, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Board for Asbestos, Lead, and Home Inspectors conducted a periodic review and a small business impact review of **18VAC15-40, Home Inspector Licensing Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 8, 2023, to support this decision.

The regulation contains the requirements for (i) obtaining a license or approval as an education course, (ii) renewal of licenses, (iii) standards of professional conduct to ensure competence and integrity of all regulants, and (iv) administering the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On November 30, 2023, the board voted to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 of the Code of Virginia mandates the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive (i) a license as a home inspector; and (ii) designation for the new residential structure (NRS) specialty; and that training providers are appropriately qualified to provide pre-license education courses; NRS training modules; and NRS continuing professional education. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

Contact Information: Tanya Pettus, Administrator, Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-1795, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

CEMETERY BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Cemetery Board conducted a periodic review and a small business impact review of **18VAC47-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 13, 2023, to support this decision.

The board's public participation guidelines mirror the Department of Planning and Budget's (DPB's) model public participation guidelines. The guidelines, having the status of a regulation, are necessary to promote public involvement in the development, amendment, or repeal of regulations. Further, the regulation is clearly written and understandable.

On September 6, 2023, the board voted to retain this regulation without amendment. The regulation continues to mirror the model public participation guidelines from DPB.

There is a continued need for this regulation because the regulation promotes public involvement in the development, amendment, or repeal of the regulations of the board. The board did not receive any comments or complaints during the public comment period. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations. The regulation was last evaluated in 2019 and does not rely on technology, economic conditions, or any other factors due to the nature of public participation. This regulation outlines the Virginia Regulatory Town Hall as the mechanism for notification, registration, and meeting procedures for public participation. The board determined that this regulation has no economic impact on small businesses.

Contact Information: Stephen Kirschner, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (866) 826-8863, or email cemetery@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Cemetery Board conducted a periodic review and a small business impact review of **18VAC47-20, Cemetery Board Rules and Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 12, 2023, to support this decision.

The regulation contains the requirements for (i) obtaining a license and registration, (ii) renewal of licenses and registrations and standards of practice and conduct, (iii) ensuring competence and integrity of all regulants, and (iv) administering the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 23.1 (§ 54.1-2310 et seq.)

Periodic Reviews and Small Business Impact Reviews

of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On September 6, 2023, the board voted to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Sections 54.1-201 and 54.1-2313 of the Code of Virginia mandate the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who and companies that meet specific criteria set forth in the statutes and regulations are eligible to receive a cemetery company license, including the minimum qualifications for compliance agents and designees and for the registration of sales personnel. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation, including those related to perpetual care and preneed trust fund and bonding requirements and preneed burial contracts.

There were no comments or complaints received during the public comment period. The regulation is clearly written, easily understandable, and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

Contact Information: Stephen Kirschner, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (866) 826-8863, or email cemetery@dpor.virginia.gov.

BOARD FOR CONTRACTORS

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Contractors conducted a periodic review and a small business impact review of **18VAC50-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 4, 2023, to support this decision.

The board's public participation guidelines mirror the Department of Planning and Budget's (DPB's) model public participation guidelines. The guidelines, having the status of a regulation, are necessary to promote public involvement in the development, amendment, or repeal of regulations. Further, the regulation is clearly written and understandable.

On September 19, 2023, the board voted to retain this regulation without amendment. The regulation continues to mirror the model public participation guidelines from DPB.

There is a continued need for this regulation because it promotes public involvement in the development, amendment, or repeal of the regulations of the board. The board did not receive any comments or complaints during the public comment period. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations. The regulation was last evaluated in 2019 and does not rely on technology, economic conditions, or any other factors due to the nature of public participation. This regulation outlines the Virginia Regulatory Town Hall as the mechanism for notification, registration, and meeting procedures for public participation. The board determined that this regulation has no economic impact on small businesses.

Contact Information: Marjorie King, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, or email contractor@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Contractors conducted a periodic review and a small business impact review of **18VAC50-22, Board for Contractors Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated November 28, 2023, to support this decision.

The regulation contains the requirements for obtaining a license or training provider course approval, renewal, and reinstatement of licenses, standards of practice and conduct, and prelicense education to ensure competence and integrity of all licensees and to administer the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On September 19, 2023, the board voted to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 of the Code of Virginia mandates the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive contractor license. The

Periodic Reviews and Small Business Impact Reviews

board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

There were no comments or complaints received during the public comment period. The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation.

The most recent periodic review occurred in 2019. The board is currently conducting a comprehensive review of the regulation in accordance with Executive Directive Number One (2022).

Contact Information: Marjorie King, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, or email contractor@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Contractors conducted a periodic review and a small business impact review of **18VAC50-30, Individual License and Certification Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated November 28, 2023, to support this decision.

The regulation contains the requirements for obtaining a license, certification, or training provider course approval, renewal, and reinstatement of licenses, standards of practice and conduct, and prelicense education to ensure competence and integrity of all licensees and to administer the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On September 19, 2023, the board voted to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 of the Code of Virginia mandates the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive contractor license. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulations.

One comment was received during the public comment period. The commenter suggested that the regulation should remain the same as the existing regulation has served the Commonwealth well. The board elected to retain the regulation

in its current form, with the acknowledgment that such decision does not prevent the board from initiating action to review or amend the regulation in the future.

The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review occurred in 2019. The board is currently conducting a comprehensive review of the regulation in accordance with Executive Directive Number One (2022).

Contact Information: Marjorie King, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, or email contractor@dpor.virginia.gov.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Professional and Occupational Regulation (DPOR) conducted a periodic review and a small business impact review of **18VAC120-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated December 5, 2023, to support this decision.

DPOR's public participation guidelines mirror the Department of Planning and Budget's (DPB's) model public participation guidelines. The guidelines, having the status of a regulation, are necessary to promote public involvement in the development, amendment, or repeal of regulations. Further, the regulation is clearly written and understandable.

On November 30, 2023, the Director of DPOR made the decision to retain this regulation without amendment. The regulation continues to mirror the model public participation guidelines from DPB.

There is a continued need for this regulation because the regulation promotes public involvement in the development, amendment, or repeal of the regulations of DPOR. DPOR did not receive any comments or complaints during the public comment period. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations. The regulation was last evaluated in 2019 and does not rely on technology, economic conditions, or any other factors due to the nature of public participation. This regulation outlines the Virginia Regulatory Town Hall as the mechanism for notification, registration, and meeting procedures for public participation. DPOR determined that this regulation has no economic impact on small businesses.

Contact Information: Joseph C. Haughwout, Jr., Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

Periodic Reviews and Small Business Impact Reviews

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Professional and Occupational Regulation (DPOR) conducted a periodic review and a small business impact review of **18VAC120-30, Regulations Governing Polygraph Examiners**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated December 5, 2023, to support this decision.

The regulation contains the requirements for obtaining a license, renewal and reinstatement of licenses, standards of practice and conduct, and approval of polygraphy schools to ensure competence and integrity of all licensees and to effectively administer the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 18 (§ 54.1-1800 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On November 30, 2023, the Director of DPOR made the decision to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), DPOR is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Sections 54.1-201 and 54.1802.1 of the Code of Virginia mandate DPOR promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. DPOR provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in statutes and regulations are eligible to receive a polygraph examiner license or to register as a polygraph examiner intern. DPOR is also tasked with ensuring that DPOR's regulants meet standards of practice that are set forth in the regulation.

There were no comments or complaints received during the public comment period. The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation.

The most recent periodic review of the regulation occurred in 2019. Currently, DPOR is conducting a comprehensive review of the regulation.

Contact Information: Marjorie King, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, or email polygraph@dpor.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Professional and Occupational

Regulation (DPOR) conducted a periodic review and a small business impact review of **18VAC120-40, Virginia Professional Boxing and Wrestling Events Regulations**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated December 5, 2023, to support this decision.

The regulation contains the requirements for (i) obtaining a license, (ii) standards of professional conduct, (iii) ensuring competence and integrity of all licensees, and (iv) administering the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 8 (§ 54.1-800 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On October 12, 2023, the Boxing, Martial Arts, and Professional Wrestling Advisory Board voted to recommend the regulation be retained without amendment. The board advises the Director of DPOR on matters relating to boxing, martial arts, and professional wrestling events in the Commonwealth.

On November 30, 2023, the Director of DPOR made the decision to retain the regulation without amendment. In accordance with the Governor's Executive Directive Number One (2022), DPOR is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Sections 54.1-201 and 54.1-831 of the Code of Virginia mandate DPOR promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. DPOR provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in statutes and regulations are eligible to be licensed. DPOR is also tasked with ensuring that DPOR's regulants meet standards of practice that are set forth in the regulation.

The comment received during the public comment period pertained to the deregulation of professional wrestling, which would require a change in statute. The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, DPOR is conducting a comprehensive review of the regulation.

Contact Information: Kathleen R. Nosbisch, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email boxing@dpor.virginia.gov.

Periodic Reviews and Small Business Impact Reviews

BOARD OF PSYCHOLOGY

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Psychology conducted a periodic review and a small business impact review of **18VAC125-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 5, 2023, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because the regulation sets forth procedures for participation of the public in the development of board regulations. Additionally, the regulation is required by statute, and the board has no discretion not to maintain this regulation. The Board of Psychology has reviewed this regulation and determined that the regulation is clearly written and understandable.

The board voted to retain the regulation without amendment. Public participation guidelines language is only changed when the Department of Planning and Budget has new model regulations for all agencies to adopt, which it does not. As a result, no changes are necessary.

The board is required to maintain this regulation, therefore there is a continued need. There have been no complaints received related to this regulation, which is not complex. The regulation does not overlap with any other law. This regulation has not changed since approximately 2017. The regulation is a model regulation provided by the Department of Planning and Budget, however, and the board will alter the regulation if and when the Department of Planning and Budget recommends changes to the model regulation.

Contact Information: Jaime Hoyle, Executive Director, Board of Psychology, 9960 Mayland Drive, Suite 300, Henrico, VA, 23233, telephone (804) 367-4441, or email jaime.hoyle@dhp.virginia.gov.

regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins January 1, 2024, and ends January 22, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Cynthia Carneal Heflin, Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7140, or email cynthia.carneal@dss.virginia.gov.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-61, Standards and Regulations for Licensed Adult Day Care Centers**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Criminal Justice Services Board intends to consider amending **6VAC20-160, Regulations Relating to the Court-Appointed Special Advocate Program (CASA)**. The purpose of the proposed action is to modify and update the requirements for the Court-Appointed Special Advocate Program. The intention of this regulatory action is to make technical amendments, eliminate unnecessary requirements, and update and clarify language. Substantive changes are being considered to training and volunteer requirements to eliminate unnecessary or overly burdensome requirements.

In addition, pursuant to § 2.2-4007.1 of the Code of Virginia, the board is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 9.1-151 of the Code of Virginia.

Public Comment Deadline: January 31, 2024.

Agency Contact: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, or email kristi.shalton@dcjs.virginia.gov.

VA.R. Doc. No. R24-7720; Filed November 30, 2023, 7:00 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Education intends to consider repealing **8VAC20-780, Standards for Licensed Child Day Centers**, and promulgating **8VAC20-781, Standards for Licensed Child Day Centers**. The purpose of

the proposed action is to address the regulation's structure and format and provide clarification where burdensome and confusing language makes it difficult for the public to accurately interpret the regulation. Repeal of the existing regulation and adoption of a new regulation will allow greater flexibility to adjust the structure, format, and language of the current regulation; remove requirements found in the Code of Virginia; and incorporate updates to address changing national health and safety guidelines and practices, as well as pursuant to the Executive Order 19 (2022) while preserving protection of the health, safety, and welfare of children in care in programs regulated by the Department of Education. A comprehensive, yearlong review of the regulation using a workgroup made up of key stakeholders, including multiple child day center leaders and practitioners, resulted in the regulation intended to replace the regulation transferred to the Department of Education from the Department of Social Services pursuant to Chapters 860 and 861 of the 2020 Acts of Assembly.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 22.1-16 and 22.1-289.046 of the Code of Virginia.

Public Comment Deadline: January 31, 2024.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

VA.R. Doc. No. R24-7610; Filed December 13, 2023, 11:50 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to consider amending **18VAC15-30, Virginia Lead-Based Paint Activities Regulations**. The purpose of the proposed action is to undertake a general review of the regulation in accordance with the regulatory reduction goal of Executive Directive Number One (2022). The regulation provides for the licensure of lead abatement workers, lead project designers, lead abatement supervisors, lead inspectors, lead risk assessors, lead contractors, and the accreditation of lead training programs. The goals of the action include (i) reviewing discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public

Notices of Intended Regulatory Action

health, safety, and welfare; or are not necessary to effectively administer the licensure program; (ii) ensuring the regulation conforms to current Virginia law and meets applicable federal requirements, is organized, clear, and understandable, and provides minimal burdens on regulants while still protecting the public; and (iii) making sure the regulation reflects current Department of Professional and Occupational Regulation procedures and policies, along with any other changes determined to be necessary and appropriate.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public Comment Deadline: January 31, 2024.

Agency Contact: Tanya Pettus, Administrator, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-0362, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

VA.R. Doc. No. R24-7743; Filed December 4, 2023, 8:07 a.m.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal Patent Tong Restrictions (4VAC20-780).

VA.R. Doc. No. R24-7752; Filed December 5, 2023, 1:12 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-770. Piankatank River Management Area (repealing 4VAC20-770-10 through 4VAC20-770-50).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal Piankatank River Management Area (4VAC20-770).

VA.R. Doc. No. R24-7751; Filed December 5, 2023, 1:12 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-790. Open Public Oyster Rocks, Pocomoke Sound (repealing 4VAC20-790-10 through 4VAC20-790-50).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal Open Public Oyster Rocks, Pocomoke Sound (4VAC20-790).

VA.R. Doc. No. R24-7753; Filed December 5, 2023, 1:28 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-780. Patent Tong Restrictions (repealing 4VAC20-780-10 through 4VAC20-780-70).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-810. Opening of John East Turn and Poynter Rocks and Closing Beaseley Bay Rock and Deep Creek Channel, Buoy No. 7 (repealing 4VAC20-810-10 through 4VAC20-810-50).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Regulations

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal Opening of John East Turn and Poynter Rocks and Closing Beaseley Bay Rock and Deep Creek Channel, Buoy No. 7 (4VAC20-810).

VA.R. Doc. No. R24-7754; Filed December 5, 2023, 1:30 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-830. A Change in the Oyster Cull Size for Oysters Harvested from Russ Rock, Rappahannock River (repealing 4VAC20-830-10 through 4VAC20-830-50).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal A Change in the Oyster Cull Size for Oysters Harvested from Russ Rock, Rappahannock River (4VAC20-830).

VA.R. Doc. No. R24-7755; Filed December 5, 2023, 1:16 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-850. Expansion of the Jail Island Clean Cull Area (repealing 4VAC20-850-10 through 4VAC20-850-40).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal Expansion of the Jail Island Clean Cull Area (4VAC20-850).

VA.R. Doc. No. R24-7756; Filed December 5, 2023, 1:16 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-860. A Change in the Oyster Cull Size for Oysters Harvested from Little Carters Rock, Rappahannock River (repealing 4VAC20-860-10 through 4VAC20-860-50).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 31, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments repeal A Change in the Oyster Cull Size for Oysters Harvested from Little Carters Rock, Rappahannock River (4VAC20-860).

VA.R. Doc. No. R24-7757; Filed December 5, 2023, 1:17 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Final Regulation

Title of Regulation: **18VAC90-70. Regulations Governing the Practice of Licensed Certified Midwives (adding 18VAC90-70-10 through 18VAC90-70-260).**

Statutory Authority: §§ 54.1-2400 and 54.1-2957.04 of the Code of Virginia.

Effective Date: January 31, 2024.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4520, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

Summary:

Pursuant to Chapters 200 and 201 of the 2021 Acts of Assembly, Special Session I, this action establishes a new regulation to license and provide practice requirements for certified midwives. Section 54.1-2957.04 of the Code of Virginia specifies the credential that will be considered as a qualification for licensure and renewal, the requirement for a practice agreement, and the prescriptive authority for the profession. The new regulation establishes requirements similar to other licensed professions for a fee structure.

renewal or reinstatement, continuing competency, and standards of practice.

Pursuant to Chapter 191 of the 2023 Acts of Assembly, the one change to the proposed regulation allows for an agency subordinate to hear informal cases involving nonroutine applications to practice.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Chapter 70

Regulations Governing the Practice of Licensed Certified Midwives

Part I

General Provisions

18VAC90-70-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances containing an opioid may be prescribed for no more than three months.

"Approved program" means a midwifery education program that is accredited by the Accreditation Commission for Midwifery Education or its successor.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances containing an opioid may be prescribed for a period greater than three months.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Licensed certified midwife" means an advanced practice midwife who is jointly licensed by the Boards of Nursing and Medicine pursuant to § 54.1-2957.04 of the Code of Virginia.

"MME" means morphine milligram equivalent.

"Practice agreement" means a written or electronic statement, jointly developed by the consulting licensed physician and the licensed certified midwife, that describes the availability of the physician for routine and urgent consultation on patient care.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

18VAC90-70-20. Delegation of authority.

A. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial licensure and the biennial renewal of such licensure to those persons who meet the requirements set forth in this chapter and to grant extensions or exemptions for compliance with continuing competency requirements as set forth in 18VAC90-70-90 E and F. Questions of eligibility shall be referred to the Committee of the Joint Boards of Nursing and Medicine.

B. All records and files related to the licensure of licensed certified midwives shall be maintained in the office of the Virginia Board of Nursing.

18VAC90-70-30. Committee of the Joint Boards of Nursing and Medicine.

A. The Committee of the Joint Boards of Nursing and Medicine, appointed pursuant to 18VAC90-30-30 and consisting of three members appointed from the Board of Medicine and three members appointed from the Board of Nursing, shall administer this chapter.

B. In accordance with 18VAC90-30-30, the committee may, in its discretion, appoint an advisory committee. The advisory committee shall include practitioners specified in 18VAC90-30-30.

18VAC90-70-40. Fees.

Fees required in connection with the licensure of certified midwives are:

| | |
|-----------------------------------------------------------------------------------|--------------|
| <u>1. Application</u> | <u>\$125</u> |
| <u>2. Biennial licensure renewal</u> | <u>\$80</u> |
| <u>3. Late renewal</u> | <u>\$25</u> |
| <u>4. Reinstatement of licensure</u> | <u>\$150</u> |
| <u>5. Verification of licensure to another jurisdiction</u> | <u>\$35</u> |
| <u>6. Duplicate license</u> | <u>\$15</u> |
| <u>7. Duplicate wall certificate</u> | <u>\$25</u> |
| <u>8. Handling fee for returned check or dishonored credit card or debit card</u> | <u>\$50</u> |
| <u>9. Reinstatement of suspended or revoked license</u> | <u>\$200</u> |

Regulations

Part II Licensure

18VAC90-70-50. Licensure generally.

A. No person shall perform services as a certified midwife in the Commonwealth of Virginia except as prescribed in this chapter and when licensed by the Boards of Nursing and Medicine.

B. The boards shall license applicants who meet the qualifications for licensure as set forth in 18VAC90-70-60 or 18VAC90-70-70.

18VAC90-70-60. Qualifications for initial licensure.

An applicant for initial licensure as a licensed certified midwife shall:

1. Submit evidence of a graduate degree in midwifery from an approved program;
2. Submit evidence of current certification as a certified midwife by the American Midwifery Certification Board;
3. File the required application; and
4. Pay the application fee prescribed in 18VAC90-70-40.

18VAC90-70-70. Qualifications for licensure by endorsement.

An applicant for licensure by endorsement as a licensed certified midwife shall:

1. Provide verification of a license as a certified midwife in another United States jurisdiction with a license in good standing or, if lapsed, eligible for reinstatement;
2. Submit evidence of current certification as a certified midwife by the American Midwifery Certification Board;
3. File the required application; and
4. Pay the application fee prescribed in 18VAC90-70-40.

18VAC90-70-80. Renewal of licensure.

A. Licensure of a licensed certified midwife shall be renewed biennially.

B. The renewal notice of the license shall be sent to the last known address of record of each licensed certified midwife. Failure to receive the renewal notice shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

C. The licensed certified midwife shall attest to current certification as a certified midwife by the American Midwifery Certification Board and submit the license renewal fee prescribed in 18VAC90-70-40.

D. The license shall automatically lapse if the licensee fails to renew by the expiration date. Any person practicing as a

certified midwife during the time a license has lapsed shall be subject to disciplinary actions by the boards.

18VAC90-70-90. Continuing competency requirements.

A. In order to renew a license biennially, a licensed certified midwife shall hold a current certification as a certified midwife by the American Midwifery Certification Board.

B. A licensed certified midwife shall obtain a total of eight hours of continuing education in pharmacology or pharmacotherapeutics for each biennium.

C. The licensed certified midwife shall retain evidence of compliance with this section and all supporting documentation for a period of four years following the renewal period for which the records apply.

D. The boards shall periodically conduct a random audit of at least 1.0% of their licensed certified midwives to determine compliance. The licensed certified midwives selected for the audit shall provide the evidence of compliance and supporting documentation within 30 days of receiving notification of the audit.

E. The boards may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee submitted prior to the renewal date.

F. The boards may delegate to the committee the authority to grant an exemption for all or part of the continuing education requirements in subsection B of this section for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

18VAC90-70-100. Reinstatement of license.

A. A licensed certified midwife whose license has lapsed may be reinstated within one renewal period by payment of the current renewal fee and the late renewal fee.

B. An applicant for reinstatement of license lapsed for more than one renewal period shall:

1. File the required application and reinstatement fee; and
2. Provide evidence of current professional competency consisting of:
 - a. Current certification by the American Midwifery Certification Board;
 - b. Continuing education hours completed during the period in which the license was lapsed, equal to the number required for licensure renewal during that period, not to exceed 120 hours; or
 - c. If applicable, a current, unrestricted license as a certified midwife in another jurisdiction.

C. An applicant for reinstatement of a license following suspension or revocation shall:

1. Petition for reinstatement and pay the reinstatement fee; and

2. Present evidence that he is competent to resume practice as a licensed certified midwife in Virginia, to include:

a. Current certification by the American Midwifery Certification Board; and

b. Continuing education hours taken during the period in which the license was suspended or revoked, equal to the number required for licensure during that period, not to exceed 120 hours.

The committee shall act on the petition pursuant to the Administrative Process Act (§ 2.2-4000, et seq. of the Code of Virginia).

Part III

Practice of Licensed Certified Midwives

18VAC90-70-110. Practice of licensed certified midwives.

A. All licensed certified midwives shall practice in accordance with a written or electronic practice agreement as defined in 18VAC90-70-10.

B. The written or electronic practice agreement shall include provisions for the availability of the physician for routine and urgent consultation on patient care.

C. The practice agreement shall be maintained by the licensed certified midwife and provided to the boards upon request. For licensed certified midwives providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the licensed certified midwife's clinical privileges or the electronic or written delineation of duties and responsibilities; however, the licensed certified midwife shall be responsible for providing a copy to the boards upon request.

D. The practice of licensed certified midwives shall be consistent with the standards of care for the profession.

E. The licensed certified midwife shall include on each prescription issued or dispensed the licensed certified midwife's signature and Drug Enforcement Administration (DEA) number, when applicable.

F. The licensed certified midwife shall disclose to patients at the initial encounter that the licensed certified midwife is a licensed certified midwife. Such disclosure may be included on a prescription or may be given in writing to the patient.

G. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

H. The licensed certified midwife shall disclose, upon request of a patient or a patient's legal representative, the name of the consulting physician, and information regarding how to contact the consulting physician.

Part IV

Prescribing

18VAC90-70-120. Prescribing for self or family.

A. Treating or prescribing shall be based on a bona fide practitioner-patient relationship, and prescribing shall meet the criteria set forth in § 54.1-3303 of the Code of Virginia.

B. A licensed certified midwife shall not prescribe a controlled substance to himself or a family member, other than Schedule VI as defined in § 54.1-3455 of the Code of Virginia, unless the prescribing occurs in an emergency situation or in isolated settings where there is no other qualified practitioner available to the patient, or it is for a single episode of an acute illness through one prescribed course of medication.

C. When treating or prescribing for self or family, the licensed certified midwife shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.

18VAC90-70-130. Waiver for electronic prescribing.

A. A prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in § 54.1-3408.02 C.

B. Upon written request, the boards may grant a one-time waiver of the requirement of subsection A of this section for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

Part V

Management of Acute Pain

18VAC90-70-140. Evaluation of the patient for acute pain.

A. The requirements of this part shall not apply to:

1. The treatment of acute pain related to (i) cancer, (ii) sickle cell, (iii) a patient in hospice care, or (iv) a patient in palliative care;

2. The treatment of acute pain during an inpatient hospital admission or in a nursing home or an assisted living facility that uses a sole source pharmacy; or

3. A patient enrolled in a clinical trial as authorized by state or federal law.

B. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. If an opioid is considered necessary for the treatment of acute pain,

Regulations

the practitioner shall give a short-acting opioid in the lowest effective dose for the fewest possible days.

C. Prior to initiating treatment with a controlled substance containing an opioid for a complaint of acute pain, the prescriber shall perform a history and physical examination appropriate to the complaint, query the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia, and conduct an assessment of the patient's history and risk of substance misuse as a part of the initial evaluation.

18VAC90-70-150. Treatment of acute pain with opioids.

A. Initiation of opioid treatment for patients with acute pain shall be with short-acting opioids.

1. A prescriber providing treatment for a patient with acute pain shall not prescribe a controlled substance containing an opioid in a quantity that exceeds a seven-day supply as determined by the manufacturer's directions for use, unless extenuating circumstances are clearly documented in the medical record. This shall also apply to prescriptions of a controlled substance containing an opioid upon discharge from an emergency department.

2. An opioid prescribed as part of treatment for a surgical procedure shall be for no more than 14 consecutive days in accordance with manufacturer's direction and within the immediate perioperative period, unless extenuating circumstances are clearly documented in the medical record.

B. Initiation of opioid treatment for all patients shall include the following:

1. The practitioner shall carefully consider and document in the medical record the reasons to exceed 50 MME per day.

2. Prior to exceeding 120 MME per day, the practitioner shall document in the medical record the reasonable justification for such doses or refer to or consult with a pain management specialist.

3. Naloxone shall be prescribed for any patient when risk factors of prior overdose, substance misuse, doses in excess of 120 MME per day, or concomitant benzodiazepine are present.

C. Due to a higher risk of fatal overdose when opioids are used with benzodiazepines, sedative hypnotics, carisoprodol, and tramadol (an atypical opioid), the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

D. Buprenorphine is not indicated for acute pain in the outpatient setting, except when a prescriber who has obtained a U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) waiver is treating pain in a patient whose primary diagnosis is the disease of addiction.

18VAC90-70-160. Medical records for acute pain.

The medical record shall include a description of the pain, a presumptive diagnosis for the origin of the pain, an examination appropriate to the complaint, a treatment plan, and the medication prescribed or administered to include the date, type, dosage, and quantity prescribed or administered.

Part VI

Management of Chronic Pain

18VAC90-70-170. Evaluation of the chronic pain patient.

A. The requirements of this part shall not apply to:

1. The treatment of chronic pain related to (i) cancer, (ii) sickle cell, (iii) a patient in hospice care, or (iv) a patient in palliative care;

2. The treatment of chronic pain during an inpatient hospital admission or in a nursing home or an assisted living facility that uses a sole source pharmacy; or

3. A patient enrolled in a clinical trial as authorized by state or federal law.

B. Prior to initiating management of chronic pain with a controlled substance containing an opioid, a medical history and physical examination, to include a mental status examination, shall be performed and documented in the medical record, including:

1. The nature and intensity of the pain;

2. Current and past treatments for pain;

3. Underlying or coexisting diseases or conditions;

4. The effect of the pain on physical and psychological function, quality of life, and activities of daily living;

5. Psychiatric, addiction, and substance misuse histories of the patient and any family history of addiction or substance misuse;

6. A urine drug screen or serum medication level;

7. A query of the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia;

8. An assessment of the patient's history and risk of substance misuse; and

9. A request for prior applicable records.

C. Prior to initiating opioid analgesia for chronic pain, the practitioner shall discuss with the patient the known risks and benefits of opioid therapy and the responsibilities of the patient during treatment to include securely storing the drug and properly disposing of any unwanted or unused drugs. The practitioner shall also discuss with the patient an exit strategy for the discontinuation of opioids in the event they are not effective.

18VAC90-70-180. Treatment of chronic pain with opioids.

A. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids.

B. In initiating opioid treatment for all patients, the practitioner shall:

1. Carefully consider and document in the medical record the reasons to exceed 50 MME per day;

2. Prior to exceeding 120 MME per day, the practitioner shall document in the medical record the reasonable justification for such doses or refer to or consult with a pain management specialist;

3. Prescribe naloxone for any patient when risk factors of prior overdose, substance misuse, doses in excess of 120 MME per day, or concomitant benzodiazepine are present; and

4. Document the rationale to continue opioid therapy every three months.

C. Buprenorphine mono-product in tablet form shall not be prescribed for chronic pain.

D. Due to a higher risk of fatal overdose when opioids, including buprenorphine, are given with other opioids, benzodiazepines, sedative hypnotics, carisoprodol, and tramadol (an atypical opioid), the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

E. The practitioner shall regularly evaluate for opioid use disorder and shall initiate specific treatment for opioid use disorder, consult with an appropriate health care provider, or refer the patient for evaluation for treatment if indicated.

18VAC90-70-190. Treatment plan for chronic pain.

A. The medical record shall include a treatment plan that states measures to be used to determine progress in treatment, including pain relief and improved physical and psychosocial function, quality of life, and daily activities.

B. The treatment plan shall include further diagnostic evaluations and other treatment modalities or rehabilitation that may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

C. The prescriber shall record in the medical records the presence or absence of any indicators for medication misuse or diversion and take appropriate action.

18VAC90-70-200. Informed consent and agreement to treatment of chronic pain.

A. The practitioner shall document in the medical record informed consent, to include risks, benefits, and alternative approaches, prior to the initiation of opioids for chronic pain.

B. There shall be a written treatment agreement, signed by the patient, in the medical record that addresses the parameters of treatment, including those behaviors that will result in referral to a higher level of care, cessation of treatment, or dismissal from care.

C. The treatment agreement shall include notice that the practitioner will query and receive reports from the Prescription Monitoring Program and permission for the practitioner to:

1. Obtain urine drug screen or serum medication levels, when requested; and

2. Consult with other prescribers or dispensing pharmacists for the patient.

D. Expected outcomes shall be documented in the medical record, including improvement in pain relief and function or simply in pain relief. Limitations and side effects of chronic opioid therapy shall be documented in the medical record.

18VAC90-70-210. Opioid therapy for chronic pain.

A. The practitioner shall review the course of pain treatment and any new information about the etiology of the pain or the patient's state of health at least every three months.

B. Continuation of treatment with opioids shall be supported by documentation of continued benefit from the prescribing. If the patient's progress is unsatisfactory, the practitioner shall assess the appropriateness of continued use of the current treatment plan and consider the use of other therapeutic modalities.

C. Practitioners shall check the Prescription Monitoring Program at least every three months after the initiation of treatment.

D. The practitioner shall order and review a urine drug screen or serum medication levels at the initiation of chronic pain management and thereafter randomly at the discretion of the practitioner but at least once a year.

E. The practitioner shall regularly evaluate for opioid use disorder and shall initiate specific treatment for opioid use disorder, consult with an appropriate health care provider, or refer the patient for evaluation for treatment if indicated.

18VAC90-70-220. Additional consultation.

A. When necessary to achieve treatment goals, the prescriber shall refer the patient for additional evaluation and treatment.

Regulations

B. When a practitioner makes the diagnosis of opioid use disorder, treatment for opioid use disorder shall be initiated or the patient shall be referred for evaluation and treatment.

18VAC90-70-230. Medical records.

The prescriber shall keep current, accurate, and complete records in an accessible manner and readily available for review to include:

1. The medical history and physical examination;
2. Past medical history;
3. Applicable records from prior treatment providers or any documentation of attempts to obtain those records;
4. Diagnostic, therapeutic, and laboratory results;
5. Evaluations and consultations;
6. Treatment goals;
7. Discussion of risks and benefits;
8. Informed consent and agreement for treatment;
9. Treatments;
10. Medications, including date, type, dosage and quantity prescribed, and refills;
11. Patient instructions; and
12. Periodic reviews.

Part VII

Disciplinary Provisions

18VAC90-70-240. Grounds for disciplinary action against the license of a certified midwife.

The boards may deny licensure or relicensure, revoke or suspend the license, or place on probation, censure, reprimand, or impose a monetary penalty on a licensed certified midwife for the following unprofessional conduct:

1. Has had licensure to practice midwifery in this Commonwealth or in another jurisdiction revoked or suspended or otherwise disciplined;
2. Has directly or indirectly held himself out or represented himself to the public as a physician or is able to, or will practice independently of a physician;
3. Has performed procedures or techniques that are outside the scope of practice as a licensed certified midwife and for which the licensed certified midwife is not trained and individually competent;
4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing, or certified midwifery;

5. Has become unable to practice with reasonable skill and safety as the result of physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals, or any other type of material;

6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration, or distribution of drugs;

7. Has failed to comply with continuing competency requirements as set forth in 18VAC90-70-90;

8. Has willfully or negligently breached the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful;

9. Has engaged in unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program; or

10. Has practiced as a licensed certified midwife during a time when the practitioner's certification as a certified midwife by the American Midwifery Certification Board has lapsed.

18VAC90-70-250. Hearings.

A. The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern proceedings on questions of violation of 18VAC90-70-240.

B. The Committee of the Joint Boards of Nursing and Medicine shall conduct all proceedings prescribed in this chapter and shall take action on behalf of the boards.

18VAC90-70-260. Delegation of proceedings.

A. Decision to delegate. In accordance with subdivision 10 of § 54.1-2400 of the Code of Virginia, the committee may delegate an informal fact-finding proceeding to an agency subordinate [~~upon determination that probable cause exists that a licensed certified midwife may be subject to a disciplinary action~~].

B. Criteria for delegation. Cases that involve intentional or negligent conduct that caused serious injury or harm to a patient may not be delegated to an agency subordinate, except as may be approved by the chair of the committee.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the committee to conduct an informal fact-finding proceeding may include current or past board members, professional staff, or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The Executive Director of the Board of Nursing shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The committee may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

DOCUMENTS INCORPORATED BY REFERENCE
(18VAC90-70)

[Standards for the Practice of Midwifery, revised 2011, American College of Nurse-Midwives](#)

VA.R. Doc. No. R22-7056; Filed December 1, 2023, 9:19 a.m.

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 13 of the Code of Virginia, which exempts amendments to regulations of the board to schedule a substance in Schedule I or II pursuant to subsection D of § 54.1-3443 of the Code of Virginia. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322).

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Effective Date: January 31, 2024.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Summary:

The amendments place three compounds into Schedule I of the Drug Control Act. The added compounds will remain in effect for 18 months or until the compounds are placed in Schedule I by action of the General Assembly.

18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. N,N-diethyl-2-[5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl]ethanamine (other name: Protonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Compounds expected to have hallucinogenic properties. 1-(1,3-benzodioxol-5-yl)-2-(cyclohexylamino)butan-1-one (other names: Cybutylone, N-cyclohexyl Butylone), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

3. Compounds expected to have depressant properties. 8-bromo-6-(2-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: Clobromazolam, Phenazolam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

4. Cannabimimetic agents.

a. 5-bromo-N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1H-indazole-3-carboxamide (other name: ADB-5Br-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-5-bromo-1-butylindazole-3-carboxamide (other name: ADB-5'Br-BUTINACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2024, unless enacted into law in the Drug Control Act.

B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. 2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (other name: 2-methyl butyryl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Compounds expected to have hallucinogenic properties.

a. 1-(7-methoxy-1,3-benzodioxol-5-yl)propan-2-amine (other names: 5-methoxy-3,4-methylenedioxyamphetamine, 3-methoxy MDA, MDMA), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. 1-[1-(3-chlorophenyl)cyclohexyl]-piperidine (other names: 3-Chloro Phencyclidine, 3Cl-PCP, 3-chloro PCP), its salts, isomers, and salts of isomers whenever the

Regulations

existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

3. Compound expected to have depressant properties. 7-bromo-5-phenyl-1,3-dihydro-1,4-benzodiazepin-2-one (other names: Desalkylgizapam, Bromonordiazepam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

4. Compound classified as a cannabimimetic agent. Methyl N-[(5-bromo-1H-indazol-3-yl)carbonyl]-3-methyl-valinate (other name: MDMB-5Br-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until October 12, 2024, unless enacted into law in the Drug Control Act.

C. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioids:

a. 2-(4-isopropoxybenzyl)-5-nitro-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other name: N-Pyrrolidino Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

b. 5-nitro-2-(4-propoxybenzyl)-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other names: N-Pyrrolidino Protonitazene, Protonitazepyne), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

c. N-phenyl-N-(1-propionyl-4-piperidinyl)-propanamide (other name: N-propionyl Norfentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Synthetic compounds.

a. N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)pentanamide (other names: para-fluoro valeryl fentanyl, para-fluoro pentanoyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

b. N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (other name: para-fluoroacetyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

3. Compounds expected to have hallucinogenic properties.

a. 1-[1-(3-fluorophenyl)cyclohexyl]piperidine (other names: 3-fluoro Phencyclidine, 3F-PCP), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. 2-(ethylamino)-2-(2-fluorophenyl)-cyclohexanone (other names: 2-fluoro-2-oxo PCE, 2-fluoro NENDCK), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

4. Compounds expected to have depressive properties:

a. 6-(4-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: 4'-chloro Deschloroalprazolam, 4'Cl-Deschloroalprazolam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. 7-chloro-5-(2-chlorophenyl)-1-methyl-3H-1,4-benzodiazepin-2-one (other names: Diclazepam, 2-Chlorodiazepam), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

5. Central nervous system stimulant. 2-(3-chlorophenyl)-3-methylmorpholine (other name: 3-chlorophenmetrazine), its salts, isomers (optical, position, and geometric), and salts of isomers.

The placement of drugs listed in this subsection shall remain in effect until March 27, 2025, unless enacted into law in the Drug Control Act.

D. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid.

a. N-ethyl-2-[5-nitro-2-[(4-propan-2-yloxyphenyl)methyl]benzimidazol-1-yl]ethanamine (other name: N-desethyl Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation.

b. 7-[(3-chloro-6-methyl-5,5-dioxo-1H-benzofc][2,1]benzothiazepin-11-yl)amino]heptanoic acid (other name: Tianeptine), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Cannabimimetic agent. Ethyl-3,3-dimethyl-2-[(1-(pent-4-enylindazole-3-carbonyl)amino]butanoate (other name: EDMB-4en-PINACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2025, unless enacted into law in the Drug Control Act.

VA.R. Doc. No. R24-7665; Filed December 8, 2023, 1:17 p.m.

TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Final Regulation

REGISTRAR'S NOTICE: The Department of State Police is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 6 of the Code of Virginia, which exempts agency action relating to customary military, naval, or police functions.

Title of Regulation: **19VAC30-70. Motor Vehicle Safety Inspection Regulations (amending 19VAC30-70-9, 19VAC30-70-9.1, 19VAC30-70-10, 19VAC30-70-20, 19VAC30-70-40, 19VAC30-70-80, 19VAC30-70-150, 19VAC30-70-160, 19VAC30-70-190, 19VAC30-70-290, 19VAC30-70-530, 19VAC30-70-560, 19VAC30-70-570; repealing 19VAC30-70-330).**

Statutory Authority: § 46.2-1165 of the Code of Virginia.

Effective Date: February 1, 2024.

Agency Contact: Captain Sean Stewart, Safety Officer, Department of State Police, P.O. Box 27472, Richmond, VA 23261, telephone (804) 278-5300, or email sean.stewart@vsp.virginia.gov.

Summary:

Pursuant to Executive Directive One (2022) and Executive Order 19 (2022), the amendments make technical corrections to the Motor Vehicle Safety Inspection Regulations (19VAC30-70). Specifically, the amendments (i) allow practical experience in combination with mirroring a certified inspector to suffice as adequate training; (ii) remove a requirement for an applicant to

visit a test site, eliminate certain forms and routing, and allow the supervising trooper to issue an inspector's license directly; (iii) eliminate the second mandatory annual shipment of supplies to inspection stations, allowing stations to order additional supplies as often as necessary; (iv) treat out-of-state vehicles the same as Virginia vehicles for inspection purposes; (v) streamline the process for inspection stations to process and submit fees collected and due; (vi) clarify brake pad and brake lining requirements; (vii) streamline requirements relating to lamps located on the rear of a vehicle; (viii) remove the requirement to inspect unapproved lights that remain unlighted during the inspection and are not wired into a required lighting system, eliminate the inspection of emergency vehicle lights, and clarify which types of light covers and lenses are permissible; (ix) remove an unnecessary reference to a center, high mount, stop light; (x) remove the failure for airbag readiness light and shift focus to the condition of the actual airbag; (xi) eliminate a requirement for certain fender mounted lamps and reduce requirements for trucks equipped with camper shells; and (xii) clarify that lighting equipment must comply with requirements in the Code of Virginia.

19VAC30-70-9. Inspector requirements.

A. The inspection of motor vehicles required by this chapter shall be made only by those individuals who are certified and licensed as safety inspectors by the Department of State Police. The procedures outlined in this section are applicable to the processing of applications for initial certification, reclassification of safety inspector's licenses, and reinstatement of suspended or revoked safety inspector's licenses.

B. All certified inspectors shall be at least 18 years of age and meet the following qualifications:

1. A minimum of one year of practical experience as an automotive mechanic ~~or~~ (six months of practical experience as an automotive mechanic combined with an additional and separate six months of mirroring a certified state inspector shall suffice as practical experience), or
2. Satisfactorily completed a training program in the field of automotive mechanics approved by the Superintendent of State Police.

A person who has met either of the practical experience requirements in repairing motorcycles may be certified to inspect motorcycles only. A person who meets practical experience requirements in repairing trailers may be certified to inspect trailers only.

C. Each mechanic entering the inspection program is required to satisfactorily pass a written and practical examination exhibiting knowledge of the inspection procedures.

D. Each certified inspector shall possess a valid Virginia driver's license with the following exceptions:

Regulations

1. An inspector who is a resident of an adjoining state holding a valid driver's license in that state and who commutes regularly to work in Virginia; or
2. A member of the armed forces of the United States on active duty, or a dependent or spouse thereof, who holds a driver's license from ~~his~~ the inspector's home state.

E. An inspector whose driver's license is suspended or revoked, including the seven-day administrative suspension for an arrest for driving under the influence (DUI), must immediately notify the station's supervising trooper or the local Safety Division Area Office of the suspension or revocation. The suspension or revocation of an inspector's driver's license shall automatically act as a suspension of ~~his~~ the inspector's privilege to inspect motor vehicles until such suspension or revocation is terminated, and the reinstatement has been made by the Superintendent of State Police.

F. Each licensed safety inspector must have a valid safety inspector's license in ~~his~~ the inspector's possession at all times while conducting inspections.

G. Each safety inspector with a valid safety inspector's license need only present such valid license to ~~his~~ the inspector's new employer to commence participation in the program at a new place of employment. Management of the inspection station is required to notify the Safety Division when a safety inspector begins or ends employment. This notification may be handled by contacting the inspection station's supervising trooper by telephone.

H. In the event the safety inspector's license becomes mutilated, lost, or stolen, the inspector must notify the Department of State Police immediately to request a duplicate using the Safety Inspector Notification Form. All required information shall be printed legibly and completely. An inspector who is not employed, writes "Inactive" in the station name block.

In those cases where notification is being made due to an address change, it is necessary to complete the Safety Inspector Notification Form and submit it to the Safety Division Headquarters. The inspector's information will be updated within the MVIP database by the Inspector Files Clerk.

NOTE: The Safety Inspector Notification Form can be downloaded from the Virginia State Police website under the Vehicle Safety Inspection link.

NOTE: Safety inspector licenses are only generated and distributed for initial certifications, renewals, name changes, and mutilated, lost, or stolen licenses. Inspectors submitting a change of address notification are not issued a new license.

I. An inspector must notify the station's supervising trooper or Safety Division Area Office within 72 hours of an arrest for a criminal offense or the institution of a civil action.

J. Requirements for safety inspector applicants with a specific learning disability.

1. Applicants must furnish documentation from the particular school division where the applicant was classified as having a learning disability. The specific learning disability must be clearly identified.
2. Once the learning disability has been documented, and if applicable, the applicant will be allowed to test with the written exam being orally presented.
3. The station management, where the applicant is employed or to be employed, must agree to have someone present during the hours the employee is conducting inspections to assist with the reading of the Official Motor Vehicle Safety Inspection Manual when necessary during the initial three-year certification period. If the inspector changes stations within the first three-year period, it is the inspector's responsibility to notify station management of ~~his~~ the inspector's disability and this requirement.

19VAC30-70-9.1. Inspector certification.

A. Upon request, the Safety Inspector Application (Form SP-170B) and Criminal History Record Request (Form SP-167) are provided online via the Virginia State Police website to individuals desiring appointment as certified safety inspectors.

1. The application package includes instructions to help guide the applicant through the process.
2. Applicants may be certified in any of the following classes after completing the necessary requirements and the appropriate examinations:
 - a. Class A: May inspect any motor vehicle, motorcycle, or trailer.
 - b. Class B: May inspect trailers only.
 - c. Class C: May inspect motorcycles only.

B. Applicants should immediately prepare for the written examination by studying the Official Motor Vehicle Safety Inspection Manual in its entirety.

~~1. When sufficiently prepared for the examination, the applicant should visit a testing site in his area to complete the appropriate examination.~~

~~2.~~ 1. The applicant must present ~~his~~ the applicant's completed application in accordance with the provisions established in 19VAC30-70-9.2.

~~3.~~ 2. If the applicant's driver's license is expired, suspended, or revoked, the applicant will be advised, and the application destroyed. The applicant may reapply after ~~his~~ the applicant's driver's license is reinstated.

C. The Class A inspector examination consists of five sections containing 20 questions each. A minimum score of 75% must be attained for each section. The Classes B and C

inspector examinations will consist of 50 questions each. A minimum score of 74% must be attained. If the applicant fails the test, failure is noted at the end of Section I on the Form SP-170B with the word "failed" and the date. The application is returned to the applicant. Applicants failing to attain the minimum score are not allowed to test again for 30 days. Applicants failing a second or subsequent examination are not allowed to test again for six months.

D. The Safety Inspector Application (Form SP-170B) and Criminal History Record Request (Form SP-167) for applicants who achieve a minimum score or greater is forwarded to Safety Division Headquarters.

1. The applicant's record is checked against safety inspector and Central Criminal Records Exchange (CCRE) files.
2. Inspection and criminal record information along with the applicant's driver transcript is forwarded with the application to the appropriate Safety Division Area Office for investigation.
3. A credit check is performed to determine that the applicant associated with the inspection program is in compliance with any judgment order or is meeting all financial obligations, or both.

E. A background investigation is conducted consisting of the following:

1. Verification that the applicant is at least 18 years of age.
2. Verification that the applicant has not less than one year's practical experience employed as an automotive technician repairing vehicles for the public, ~~or~~ (six months of practical experience as an automotive mechanic combined with an additional and separate six months of mirroring a certified state inspector, shall suffice as practical experience) or has satisfactorily completed a training program in the field of automotive mechanics approved by the Department of State Police. The following training programs in the field of automotive mechanics have been approved as a substitute for the one year's practical experience requirement:
 - a. The two-year associate degree or diploma programs in automotive technology offered by the Virginia Community College System consisting of the following minimum curriculum:
 - (1) Automotive Electrical Systems - three semester hours.
 - (2) Braking Systems - three semester hours.
 - (3) Emissions Control Systems - three semester hours.
 - (4) Suspension and Steering Systems - three semester hours.
 - (5) Vehicle Safety Inspection - two semester hours.
 - b. The 1,080-hour Career Technical Automotive Services Technology Program, offered by the Office of Career Technical Education, State Department of Education, in the various technical schools located throughout Virginia

or be certified by the National Institute for Automotive Service Excellence (ASE), or both.

(1) Upon the successful completion of this course, including a practical test as defined in this section, the student must complete a Safety Inspector Application (Form SP-170B) and a Criminal History Record Request (Form SP-167), pass a written test as defined in subsection C of this section, and submit to a background investigation as defined in this subsection. Upon successful completion of these requirements, the student, if 18 years of age, is certified as a safety inspector and issued a safety inspector license.

(2) If the student scores less than 75% on any part of the examination, the application will be returned to the certifying trooper. Students scoring less than 75% on any part of the examination may retest at the certifying trooper's next recertification testing date, but not sooner than 30 days from the date of the last examination. If the student passes the test at this time and is at least 18 years of age, ~~he~~ the student is issued a safety inspector license. Upon the student's 18th birthday, providing ~~he~~ the student still meets all of the requirements, the student will be issued a safety inspector license.

(3) Students failing the second written examination are not allowed to test again for six months. In order to retest the student must be at least 18 years of age and must complete the application process set forth for original certification.

c. The 1,500-hour Course #1 entitled "Auto-Diesel Technician Course" offered by the Nashville Auto Diesel College, Inc., 1524 Gallatin Road, Nashville, Tennessee 37206.

3. A determination of the applicant's mechanical ability through interviews with employers and customers.
4. A review of the applicant's current driving record on file with the Department of Motor Vehicles (DMV) is utilized in determining applicant's suitability for certification.
5. Determination of the character and reputation of the applicant through previous associates, employers, and records.
6. Determination of the applicant's attitude toward the inspection program and receptiveness to State Police supervision through personal interview.
7. The investigating trooper shall administer a practical examination to determine the applicant's ability to conduct a safety inspection. The applicant will conduct a complete inspection, including the use of the optical headlight aimer. This shall be conducted at the applicant's station of employment. If the applicant is not employed at a certified inspection station, the applicant may make arrangement with one to conduct practical testing.

Regulations

F. Any applicant whose application is voluntarily withdrawn may not reapply sooner than six months from the date of the withdrawal. Any applicant whose application is denied may not reapply sooner than 12 months from the date of the letter notifying the denial.

G. When a safety inspector is certified, the bottom of the Form SP-170B is completed by the certifying trooper. The classification for which the safety inspector is being certified and the date of certification must be entered by the trooper on the bottom of the Form SP-170B. The Form SP-170B shall then be forwarded to the Safety Division Area Office.

H. Upon certification, the supervising trooper ~~fills out the temporary inspector's license in triplicate, providing the original (white copy) to the inspector, forwarding the canary copy to Safety Division Headquarters, and retaining the pink copy at the Safety Division Area Office for six months. Once the safety inspector has been issued the license, he is eligible to begin inspecting shall issue the inspector's license.~~

I. All safety inspector licenses shall be valid for a period of three years.

19VAC30-70-10. Official inspection station requirements.

A. Official inspection stations, except private appointments, shall be open at least eight hours of each normal business day and shall be able to perform inspections 12 months throughout the year, except during illness of limited duration or normal vacation.

1. Normal business hours, Monday through Friday, are defined as an eight-hour period of time between 8 a.m. and 6 p.m.
2. Stations are not prohibited from performing inspections at times other than during normal business hours.
3. A station that advertises inspections beyond normal business hours shall be able to perform such inspections.
4. If a station desires to maintain business hours that are different from those defined in this section, written permission must be obtained from the safety officer and a sign setting forth the inspection hours must be posted conspicuously at the station where it can be observed by a person desiring to have a vehicle inspected.
5. Stations seeking to participate on a part-time basis, due to not having a full-time inspector available during normal business hours, shall be available for inspections for a minimum of 20 hours per week and shall notify their supervising trooper of the following items to have documented in their files:
 - a. Hours of operation the station will be conducting safety inspections.
 - b. Intended methods of notifying the public what hours inspections are available.

c. Name of the inspector who will be designated for part-time hours of operation.

d. Time period established for ownership to find and employ a full-time inspector.

B. At least one full-time safety inspector (stations in compliance with subdivision A 5 of this section excluded), to perform inspections and one inspection lane meeting the minimum requirements shall be available for inspection at all times during the normal business day. All inspections must be made only at the locations and in the inspection lane approved by the Department of State Police. All stations shall have other lanes, bays, or areas in which repairs can be made so the inspection lane can remain available.

The designated inspection areas, including any location where customers are permitted to enter when submitting vehicles for inspection, must be kept clean and free from excessive dirt, grease, and loose materials. If requested, customers presenting vehicles for inspection shall be allowed to observe the inspection process from a safe location designated by the station.

C. Inspection station facilities must be properly maintained and must present a businesslike appearance to the general public. Property adjacent to the inspection station that is owned or controlled by the station must be free of debris, litter, used parts and junk vehicles. Vehicles properly contained within fenced storage areas shall be deemed to comply with this requirement.

D. Official inspection stations may, at their discretion, accept vehicles on a first-come, first-served basis or by prescheduled appointments for the safety inspection of a motor vehicle pursuant to § 46.2-1157 of the Code of Virginia. Appointments shall be made for those motorists that are required by subdivision A 12 of § 46.2-1158.01 of the Code of Virginia.

E. Safety inspectors, managers who supervise inspection activities, and business owners, through participation in the Official Motor Vehicle Inspection Program, are representatives of the Department of State Police and should conduct themselves in a manner to avoid controversy in dealing with customers presenting vehicles for inspection. The use of profanity or verbal abuse directed at customers presenting their vehicles for inspection will be grounds for suspension from participation in the inspection program and will be considered a Class IV offense as set forth in 19VAC30-70-6. Controversy that cannot be calmly resolved by the safety inspector, managers, and owners should be referred to the supervising trooper for handling.

F. The "Certificate of Appointment" must be framed under glass or clear plastic and posted in the customer waiting area where it can be observed and read by a person submitting a vehicle for inspection.

Inspection stations must have garage liability insurance in the amount of at least \$500,000 with an approved surplus lines

carrier or insurance company licensed to write such insurance in this Commonwealth. This requirement shall not apply to inspection stations that only inspect their company-owned, government-owned, or leased vehicles.

G. The required "Official Inspection Procedure" sheet and the "Direct Inquiries" sheet furnished to each station must both be framed under glass or clear plastic and posted conspicuously in the customer waiting area where they can be observed and read by a person submitting a vehicle for inspection.

H. The poster designating the station as an official inspection station shall be posted in a prominent location, outside or visible outside the station, to alert passersby that inspection services are available. Private inspection stations shall not display an outside poster.

I. Each official inspection station shall display a list with the names and license expiration dates of each active inspector associated to the station within the Motor Vehicle Inspection Program (MVIP) system, adjacent to the certificate of appointment. All inspectors listed must be actively employed by the station.

J. Important -- Any change in name, ownership, or location of any official inspection station cancels the appointment of that station, and the Department of State Police must be notified immediately. The department shall be notified when an official inspection station discontinues operation.

K. All inspection supplies, inspection binders and manual, unused stickers, duplicates of certificates issued, bulletins, and other forms are the property of the Department of State Police and must be safeguarded against loss.

L. Inspection supplies issued to an inspection station can be used only by that station and are not to be loaned or reissued to any other station.

1. Stations must maintain a sufficient supply of approval stickers, trailer and motorcycle approval stickers, rejection stickers, and inserts. When reordering supplies, station owners or managers shall request sufficient supplies to sustain their business for at least six months. However, it is realized that some stations will not be able to comply with the six-month requirement since there is a maximum of 100 books per order limit. Also, when ordering supplies, the following information should be considered so the station does not order an excessive amount of supplies: each book of approval stickers contains 25 stickers, the rejection book contains 50 stickers, the month inserts are packaged in strips of 50 each, and trailer and motorcycle decals are five per strip.

~~Stations receive biannual (November/May) supply shipments each year. The first supply shipment (November) includes car/truck approval stickers, car/truck month inserts, and trailer/motorcycle year inserts. The second supply shipment (May) contains car/truck approval stickers and~~

~~car/truck month inserts. Supply amounts for each shipment are calculated upon the stations current and previous year inspection trends.~~

Stations are responsible for maintaining an adequate supply of inspections supplies to operate efficiently and without delay; therefore, after stations receive the ~~biannual first~~ shipment of the calendar year, additional supplies ~~can~~ shall be ordered through the MVIP station account.

2. Inspection stations that exhaust any type of their supplies, such as approval stickers, trailer and motorcycle approval stickers, rejection stickers, or inserts shall immediately stop all inspection operations and contact their supervising trooper or the nearest Safety Division Area Office.

M. All losses of stickers must be reported immediately to the supervising inspection trooper or the nearest Safety Division Area Office.

N. Every precaution against the loss of stickers must be taken. If the loss occurs through carelessness or neglect, a suspension of the station may result.

O. The Official Motor Vehicle Safety Inspection Manual must be kept at or near the point of inspection for ready reference. Additional manuals, bulletins, regulations, and lists of approved equipment must also be available at all times. All reference materials may be kept in written or electronic form. Revisions to the Motor Vehicle Safety Inspection Manual will be sent to each station electronically through the MVIP system. Station management shall be responsible to see that each safety inspector is familiar with all bulletins and manual revisions and shall be required to furnish evidence to the department that all bulletins and manual revisions have been reviewed by each licensed inspector.

A copy of the diagram drawn by the investigating trooper, showing the approved inspection lane or lanes, will be maintained for review and kept available with the station's inspection supplies.

P. Private appointment may be made of company stations or government stations that own and operate a minimum of 20 vehicles and they may inspect only company-owned or government-owned vehicles respectively. When authorized by the department, they may inspect vehicles of a wholly-owned subsidiary or leased vehicles.

1. A private station may perform inspections during each month of the year or may elect to inspect only during certain designated months.

2. A private station not electing to inspect vehicles every month of the year that finds it necessary to inspect a vehicle during a month other than those selected for inspection may issue a sticker to the vehicle from the nearest past inspection month.

Regulations

Q. All official inspection station owners, managers, and certified safety inspectors shall comply with the Virginia inspection laws and the inspection rules and regulations and will adhere to all instructions given by the supervising trooper or the Safety Division. Reports of violations will be investigated and, if found to be valid, may result in the suspension of the station, suspension of the inspector, possible court action, or other appropriate action, or any combination of these actions. Repeated violations or serious violations may result in a revocation of the inspector or station appointment, or both, by the superintendent.

R. The arrest of any person associated with the inspection program for a criminal offense of a nature that would tend to immediately reflect upon the integrity and reputation of the Department of State Police may be grounds for an inactive station status until final court disposition. Any finding other than acquittal may result in a suspension or revocation of the station's appointment.

S. When a station has been suspended or revoked, it must release to an employee of the Department of State Police all inspection supplies, posters, and papers including the certificate of appointment. Failure to do so is a violation of § 46.2-1172 of the Code of Virginia.

T. The authority of the superintendent to suspend the designation or appointment of an official inspection station as provided in § 46.2-1163 of the Code of Virginia, or to suspend the certification of an inspector designated to perform inspections at an official inspection station, and, in keeping with the provisions of § 46.2-1166 of the Code of Virginia, is hereby delegated to any of the following supervisory ranks of the Department of State Police: Lieutenant Colonel, Major, Captain, Lieutenant, First Sergeant, and Sergeant.

U. Each station must purchase and keep in proper operating condition the following equipment: computer, printer, internet connection, paper hole punch, black ball point pen or pens or black marker or markers, sticker scraper with replacement razor blades, tire tread depth gauge, amp meter, headlight and auxiliary lamp adjustment tools, 12-inch ruler, 25-foot measuring tape, torque wrench or torque sticks, brake pads/shoes/disc/drum measuring device, dial indicator, micrometer, pry bars, roller jack (at least 4-ton), and an approved type optical headlight aiming device. Each station that requests an additional inspection lane that is not in close proximity to the originally approved inspection lane must purchase an additional approved headlight machine for each lane that meets the minimum requirements. Stations are required to have one of the following headlight aiming devices: Hopkins Vision1, Hopkins Vision 100, American Aimers Vision 100, American Aimers Vision 2 Pro, or the Symtech (former L.E.T.), DVA-6, HBA-5, PLA-11, and PLA-12. This shall not apply to "trailer-only" inspection stations.

19VAC30-70-20. General inspection requirements.

A. Each official inspection station must inspect every vehicle presented for inspection as prescribed by this chapter, either approving or rejecting it. Inspections will not be performed unless requested.

1. Dealers' vehicles and out-of-state vehicles shall be inspected according to these standards when submitted for inspection. The dealer's name rather than the license number shall be shown on the rear of the approval or rejection sticker.

~~2. Out of state vehicles may be inspected, but shall not be approved unless they meet the requirements of the Official Motor Vehicle Safety Inspection Manual.~~

~~3.~~ 2. When a vehicle is presented for inspection, the previous approval sticker, if any, on the vehicle shall be removed and destroyed before any inspection is conducted (except a rejection sticker). For purposes of the safety inspection program, "destroyed" shall mean that the previous inspection sticker will be disposed of in a manner so it cannot be reused or placed on another vehicle's windshield. After removing the inspection sticker, the safety inspector who is to perform the inspection must drive the vehicle into an approved inspection lane unless the safety inspector is not qualified to operate the vehicle. During the operation of the vehicle, the safety inspector must make application of the service and parking brakes and check for conditions as set forth in the Service Brake Section of the Official Motor Vehicle Safety Inspection Manual applicable to the vehicle being inspected.

WARNING: No razor blades or similar devices should be used to remove stickers from "Securiflex," "Anti-Lacerative," or "Inner Shield" type windshield. These windshields are identified as AS-14. Any questions concerning removal should be directed to the nearest Safety Division Area Office.

B. Each inspection shall be a complete, uninterrupted inspection and shall include a check of all applicable items in the Official Motor Vehicle Safety Inspection Manual. All repair tools and testing equipment required prior to a station's appointment shall be properly maintained and available for use during each inspection.

C. The term "inspection" as used in this chapter shall not include repairs or adjustments. Repairs or adjustments necessary to bring the vehicle in conformity with this chapter may be made by agreement between the owner and such station or whatever repair shop the owner may select. When requested to do so by the person submitting a vehicle for inspection, any repairs or adjustments necessary to bring the vehicle into compliance with the inspection program rules and regulations shall be made by the inspection station performing the inspection. The inspection station management may utilize the option of subcontracting the repairs or adjustments provided the application filed for the station appointment reflected that such repairs or adjustments will be subcontracted.

D. Each vehicle that meets the requirements as set forth in this chapter shall be issued an approval sticker. Those vehicles that do not meet the inspection requirements shall be issued a rejection sticker. Any trailer required to be inspected under the provisions of the Code of Virginia may, only if the size or configuration of the trailer and the size and configuration of the facilities of the inspection station prevent the trailer from being inspected inside the inspection station, be inspected outside the inspection station. The location on the outside of an inspection station where trailers

may be inspected shall be approved by the Department of State Police and shown on the station diagram.

E. Inspections may be made when it is raining or snowing. Care must be exercised when making inspections in inclement weather. Vehicles covered with ice, snow, mud, or other debris to the extent that required parts cannot be inspected, may be refused inspection until the operator removes such debris.

F. A certified safety inspector shall be prohibited from conducting safety inspection examinations on any vehicle registered to himself. This restriction shall also apply to vehicles registered outside of the Commonwealth of Virginia.

19VAC30-70-40. Fees.

A. Before the inspection of a vehicle begins, the vehicle owner or operator must be informed there is a regulated fee pursuant to § 46.2-1167 of the Code of Virginia.

B. The maximum inspection fees effective July 1, 2019, are as follows:

\$51 for each inspection of any (i) tractor truck, (ii) truck that has a gross vehicle weight rating of 26,000 pounds or more, or (iii) motor vehicle that is used to transport passengers and has a seating capacity of more than 15 passengers, including the driver.

\$12 for each inspection of any motorcycle and autocycle.

\$16 for each inspection of any other vehicle, including trailers and motor homes.

1. Inspection fees will result in inspection stations retaining and forwarding \$.70 to the Department of State Police to support the department's costs in administering the Motor Vehicle Inspection Program (MVIP). Collection of these fees will be billed quarterly to each station on April 15, July 15, October 15, and January 15 of each year.

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Tractor Trucks Trucks that have a gross vehicle weight rating of 26,000 pounds or more Buses that seat more than 15 passengers (including the driver) | \$.50 per inspection |
| Cars Pickup Trucks/Trucks Recreational Motor Homes Trailers | \$.70 per inspection |
| Motorcycles Autocycles | \$2.00 per inspection |

2. After the appropriate fee has been determined for each station, an invoice is uploaded to each station's MVIP billing account. ~~The procedures for mailing payments are outlined in this subdivision as follows:~~

~~a. Print the invoice from the MVIP station account.~~

~~b. Prepare a check, cashier's check, or money order made payable to the Department of State Police for the amount indicated on the invoice and include the station number within the memo section of the check.~~

~~c. Prepare an envelope with the following information: Department of State Police—Safety Division, P.O. Box 27472, Richmond, Virginia 23261.~~

~~d. Mail the check and invoice to the address listed in subdivision 2 c of this subsection.~~

3. The an invoice is uploaded to each station's billing account, the station has 30 days in which to mail in the processing fee to submit payment by logging in to their respective eReceivables billing account. In the event a check does not clear the bank for any reason, a \$50 fee will be assessed the station. Also, under 19VAC30-70-5, a returned check will be a Class III offense and administrative actions may be held against the station's record. Once the station has been contacted by the Department of State Police regarding a returned check, it will have 15 days to respond. If the returned check dispute is not settled in this period of time, administrative or legal sanctions, or both, may be taken against the station and, in addition, any requests for supplies will not be honored until the dispute has been settled.

NOTE: Late fees will be handled in accordance with §§ 2.2-4805 and 6.2-302 of the Code of Virginia.

C. If a rejected vehicle is not submitted to the same station within the validity period of the rejection sticker or is submitted to another official inspection station, a complete inspection must be performed and a charge of \$51 may be made for inspection of tractor trucks, trucks that have a gross vehicle weight rating of 26,000 pounds or more, and buses that seat more than 15 passengers, including the driver. A charge of \$20 may be made for each inspection performed on any other vehicle to include recreational motor homes and trailers. A charge of \$12 may be made for each motorcycle and autocycle inspection.

NOTE: The truck inspection fee does not pertain to any trailer.

D. A charge of \$1.00 may be made for reinspection of a vehicle rejected by the same station during the 15-day validity of the rejection sticker.

E. Inspection stations shall not charge an additional fee to those customers who drop off their vehicles for a state inspection. This is a violation of § 46.2-1167 of the Code of Virginia unless the station charges a "storage fee" for all services and repairs and not just for inspections.

19VAC30-70-80. Service brakes.

A. The inspector, as a minimum, must drive all vehicles into the inspection lane and test both service and parking brakes.

Regulations

B. A minimum of two wheels, one front and one rear, must be inspected on each passenger and multipurpose vehicle with a gross vehicle weight rating of 10,000 pounds gross vehicle weight rating (GVWR) or less at the time of inspection, except those listed in subdivisions 1, 2, and 3 of this subsection.

NOTE: If the vehicle is equipped with wheels that do not allow visual access to the braking system, the inspected wheels shall be removed.

NOTE: If the vehicle is equipped with drum brakes, the wheel and drum shall be removed for inspection.

1. Motorcycles.

2. A new model vehicle is defined as a vehicle that has not been titled or leased and is less than one year old, measured from October 1 as of each year; if such motor vehicle does not have a model year, such measurement shall be made from the date of manufacture.

3. Trucks with floating axles that require seal replacement upon removal of rear wheels. The inspection receipt (approval and rejection) shall be marked to reflect which wheels were pulled.

Warning: If wheels are removed to inspect brakes, lug nuts must be torqued to the manufacturer's specifications to prevent damage to disc rotors. The use of an impact wrench may exceed the manufacturer's specifications and damage disc rotors.

C. If any braking problem is detected, the inspector may test drive or require a test drive of the vehicle.

D. Inspect for and reject if:

1. Vehicle is not equipped with brakes or any brake has been disconnected, rendered inoperative, or improperly installed. Trailers having an actual gross weight of less than 3,000 pounds are not required to be equipped with brakes; however, if brakes are installed, these vehicles must be inspected.

Brake System Failure Indicator Lamp

2. Passenger vehicles manufactured after January 1, 1968, are not equipped with a red brake failure warning lamp or warning lamp does not light with parking brake applied when ignition key is turned to the start position, except for anti-lock system. The red brake failure warning lamp should light when the ignition key is turned to the start position; on some imports it may be checked when the emergency brake is applied or other factory installed test button. (DO NOT reject if only the amber ABS/anti-lock brake lamp is on.) With the engine running and parking brake released, the red brake failure warning lamp should go off, except for vehicles equipped with anti-lock system. If so, apply service brake for 10 seconds and if the red brake failure warning lamp lights again the system is defective. Also, if the warning lamp light does not come on when there is a leak or the warning lamp light is not functioning properly, the system is defective and shall be rejected. NOTE: This

subdivision does not apply to vehicles registered as street rods nor does it imply that the red brake failure warning lamp needs to light when the emergency brake is set. There are many vehicles that are not factory equipped with an emergency brake indicator light.

Note: Vehicles equipped with a brake pad wear indicator warning light shall not constitute an automatic rejection for the vehicle submitted for a safety inspection. Each vehicle manufacturer has determined an appropriate level to activate the brake pad wear indicator warning light; therefore, it shall be the responsibility of the inspector to confirm whether or not the brake pads have exceeded the established tolerance of 2/32 of an inch.

Brake Linings and Disc Pads

3. ~~Riveted~~ Bonded, molded, or riveted linings or disc pads are worn to less than 2/32 of an inch in thickness at any point (not to include manufactured slots) or over the rivet heads.

~~4. Bonded or molded linings or disc pads are worn to less than 2/32 of an inch in thickness at any point, not to include manufactured slots.~~

~~5.~~ 4. Wire in wire-backed lining is visible in friction surface.

~~6.~~ 5. Snap-on brake linings are loose.

~~7.~~ 6. Any lining is broken or cracked so that the lining or parts of the lining are not firmly attached to the shoe or has cracks on the friction surface extending to the open edge.

~~8.~~ 7. Grease or other contamination is present on the linings, drums, or rotors.

~~9.~~ 8. Rivets in riveted linings are loose or missing.

~~10.~~ 9. Any lining or pad is misaligned or does not make full contact with the drum or rotor, with the exception of minor scoring caused by debris, provided it does not affect braking efficiency.

~~11.~~ 10. Any foreign material or debris caught between a drum or rotor and the brake pad.

Brake Drums and Discs

NOTE: The inspector shall ensure that the minimum measurements in ~~subdivisions~~ subdivision D 3 and D 4 of this section are obtained.

~~12.~~ 11. Brake drums or brake discs (rotors) are worn or scored to the extent that their machining would result in a failure to meet manufacturer's specifications. Use the specification stamped on the rotor or drum if available.

~~13.~~ 12. Brake drums or brake discs (rotors) are scored to the extent that the braking surface is reduced to the point that the braking efficiency is adversely affected. This does not apply to minor scoring caused by debris.

NOTE: A number of vehicles on the market are equipped with a lock nut to hold the rear brake drum in place. Manufacturers

recommend replacement of these lock nuts after each removal to prevent failure of the component. If the customer is advised up front, then the wholesale cost of the replacement nut may be charged to the customer.

NOTE: The proper method to remove the rear brake assembly on the 2000 Ford Focus is to remove the four bolts from the opposite side of the assembly. Removal otherwise may damage the outside grease cap and incur a cost to replace.

14. 13. Brake drums or discs have any external crack or cracks more than one half the width of the friction surface of the drum or disc. NOTE: Do not confuse short hairline heat cracks with flexural cracks.

Mechanical Linkage

15. 14. Cables are frayed or frozen.

16. 15. Mechanical parts missing, broken, badly worn, or misaligned.

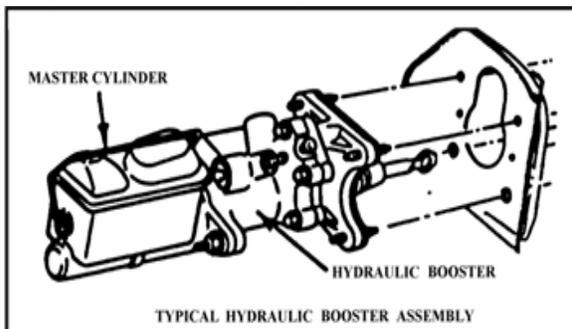
E. Hydraulic.

NOTE: Some motor vehicles, beginning with 1976 models, have a hydraulic power system that serves both the power-assisted brakes and power-assisted steering system. Some vehicles, beginning with 1985 models, have an integrated hydraulic actuation and anti-lock brake unit using only brake fluid.

1. Brake hydraulic system. Inspector should check the brake hydraulic system in the following manner: test vehicle in a standing position; apply moderate pressure to the brake pedal for 10 seconds. Brake pedal height must be maintained. On vehicles equipped with power-assisted systems, the engine should be running.

2. Hydraulic system operation. Stop engine, then depress brake pedal several times to eliminate all pressure. Depress pedal with a light foot-force (30 pounds). While maintaining this force on the pedal, start engine and observe if pedal moves slightly when engine starts.

Reject vehicle if pedal does not move slightly as engine is started while force is on brake pedal.



3. Condition of hydraulic booster power brake system. Inspect system for fluid level and leaks.

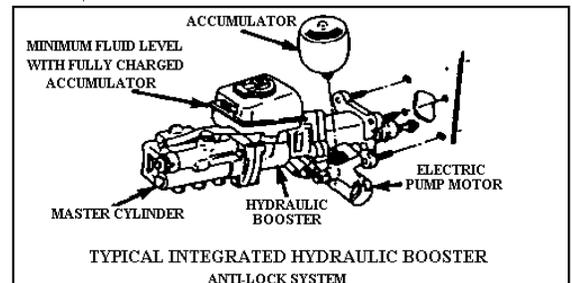
Reject vehicle if there is insufficient fluid in the reservoir; if there are broken, kinked, or restricted fluid lines or hoses; if there is any leakage of fluid at the pump, steering gear or

brake booster, or any of the lines or hoses in the system; or if belts are frayed, cracked, or excessively worn.

4. Integrated hydraulic booster/anti-lock system operation. With the ignition key in the off position, depress brake pedal a minimum of 25 times to deplete all residual stored pressure in the accumulator. Depress pedal with a light foot-force (25 pounds). Place ignition key in the on position and allow 60 seconds for the brake warning light to go out and the electric pump to shut off.

Reject vehicle if the brake pedal does not move down slightly as the pump builds pressure or if the brake and anti-lock warning lights remain on longer than 60 seconds.

NOTE: The inspection of the ABS light is only for an integrated system that is an earlier system. The newer system that has the nonintegrated systems does not need to be checked. If the ABS system malfunctions on the newer system, the brake systems are still functional.

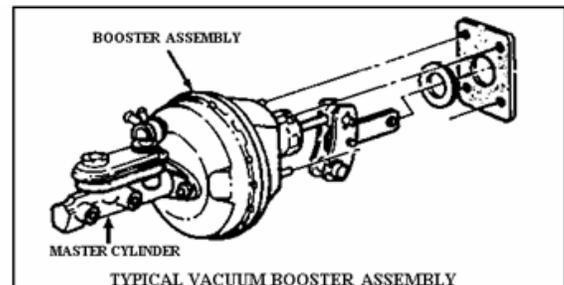


5. Condition of integrated hydraulic booster/anti-lock system with electronic pump. With the system fully charged, inspect system for fluid level and leaks.

Reject vehicle if there is insufficient fluid in the reservoir; if there are broken, kinked, or restricted fluid lines or hoses; or if there is any leakage of fluid at the pump or brake booster, or any of the lines or hoses in the system.

6. Vacuum system operation. Stop engine then depress brake pedal several times to eliminate all vacuum in the system. Depress pedal with a light foot-force (25 pounds). While maintaining this force on the pedal, start engine and observe if pedal moves down slightly when engine starts.

Reject vehicle if pedal does not move down slightly as engine is started while force is on the brake pedal. In full vacuum-equipped vehicles, there is insufficient vacuum reserve for one full service brake application after engine is stopped.



Regulations

7. Condition of vacuum booster power brake system. Reject vehicle if there are collapsed, cracked, broken, badly chafed, or improperly supported hoses and tubes, loose or broken hose clamps.

F. Inspect for and reject if:

General Specifications - Hydraulic Brakes

1. There is any leakage in the master cylinder, wheel cylinders, or brake calipers. When checking for leakage in rear wheel cylinders, do not disturb the dust boot.

NOTE: Do not reject for the common dust ball formed on wheel cylinders or for wetness that may have spread to the backing plate unless it has contaminated the linings or drums as specified in subdivision D 8 of this section. Consumers should be advised of this wear so that they will be aware that repair may be needed before their next inspection. This may not warrant an immediate repair considering the dual valve master cylinder.

2. Fluid level in master cylinder is below the proper level for the particular vehicle.

3. There is any evidence of a caliper sticking or binding.

Electric Brake System

4. Trailers show an amperage value more than 20% above or 30% below the brake manufacturer's maximum current rating for each brake.

5. Amp meter shows no reading or indicator is not steady on application and release of brake controller.

6. Any terminal connections are loose or dirty; wires are broken, frayed, or unsupported; any single conductor nonstranded wires below the size recommended by the brake manufacturers are installed.

7. Electrical trailer brakes do not apply automatically when the breakaway safety switch is operated.

8. Breakaway braking devices are missing or inoperative; cable is frayed or broken.

General Specifications

9. Absence of braking action on any wheel required to have brakes.

10. There is any leakage in any hydraulic, air, or vacuum lines; hoses have any cracks, crimps, or restrictions or are abraded, exposing inner fabric; tubing or connections leak or are crimped, restricted, cracked, or broken; or any valves leak or are inoperative.

a. Reject the vehicle if the brake hoses or tubing are stretched or extended and do not allow for suspension movement.

b. Brake tubing and hoses must be:

(1) Long and flexible enough to accommodate without damage all normal motions of the parts to which they are attached;

(2) Secured against chaffing, kinking, or other mechanical damage; and

(3) Installed in a manner that prevents them from contacting the vehicle's exhaust system or any other source of high temperatures.

11. Any hydraulic brake tubing has been repaired using a compression fitting.

12. Brakes are not equalized so as to stop the vehicle on a straight line.

13. There is less than 1/5 reserve in actuator travel of the service brake when fully applied on all hydraulic, mechanical, or power-assisted hydraulic braking systems.

14. When tested on dry, hard, approximately level road free from loose material, at a speed of 20 miles per hour without leaving a 12-foot wide lane, results in excess of the following distances are obtained:

(When in doubt about a vehicle's stopping ability, the inspector shall conduct a road test.)

a. Any motor vehicle (except motorcycles, trucks, and tractor-trucks with semitrailers attached) four wheel brakes - 25 feet.

b. Any motor vehicle (except motorcycles, trucks, and tractor-trucks with semitrailers attached) two wheel brakes - 45 feet.

c. All combinations of vehicles - 40 feet.

19VAC30-70-150. Rear lamps: tail lamp; license plate lamps; and rear lamp combinations.

Inspect for and reject if:

1. Vehicle is not equipped with a rear (tail lamp) or rear lamp combination of an approved type or light assembly does not work as designed by the manufacturer.

2. The vehicle is equipped with more than one rear lamp, if all are not in operating condition.

~~3. The vehicle is not equipped with a license plate lamp that emits a white light. The license plate lamp may be a separate lamp or part of a combination rear lamp.~~

~~4. License plate is not illuminated by a license plate lamp that emits a white light.~~

~~5. 3.~~ Lens on rear lamps, or lens area in combination rear lamps (tail lamps), are not red. LED (light-emitting diode) lights with a clear lens are acceptable. Vehicles equipped with multiple LED lights (not filament-burning bulbs) will pass a safety inspection if more than 50% of the diode lights are burning.

NOTE: Replacement tail lamps, commonly sold as "clear" tail lamps or "Euro-Tail" lamps, will not pass inspection if the red lamps are replaced with clear ones.

~~6.~~ 4. Lens has piece broken from it or does not fit properly. The lens may have one or more cracks provided an off-color light does not project through the ~~crack or~~ cracks. Taping or gluing cracks or pieces is not permitted.

~~7.~~ 5. Filament in all rear (tail) lamps does not burn when headlamp switch is turned on to any position, or if lamps do not provide a red light visible to the rear through an approved red lens as annotated in subdivision 1 of this section. If it is a rear lamp combination incorporated with a wraparound side-marker light, then the side-marker lens must be red and not a clear lens with a red bulb. If the bulb, socket, and wiring are removed from the side-marker lamps, then they will not be considered during the inspection.

~~8.~~ 6. Rear (tail) lamp is not mounted near extreme rear of vehicle. Dump trucks and other specially constructed vehicles may mount the rear lamp at a point other than on the extreme rear, provided such rear lamp is clearly visible from the rear, and further provided that a red reflector of an approved type is mounted on the extreme rear. In unusual cases, the rear lamp may be mounted on the cab. Reject if the lamp is hidden by a bolster or other part of the body or frame, is not mounted securely, or if the lamp does not make a good electrical contact.

~~9.~~ 7. The vehicle has wire, unapproved lens or plastic covers, any other materials that are not original equipment, or any colored material placed on or in front of rear lamps, license plate lamps, and rear lamp combinations.

~~10.~~ 8. Wiring or electrical connections are defective or filaments do not burn.

NOTE: Every trailer shall carry at the rear two red tail lights of a type approved by the superintendent.

19VAC30-70-160. Auxiliary lamps: backup; cornering; driving; fog; spot and warning.

A. Auxiliary lamps on a vehicle consist of seven general types: backup lamps (SAE-R), cornering lamps (SAE-K), driving lamps (SAE-Y), front fog lamps with an amber or clear lens (SAE-F) and rear fog lamps with red lens (SAE-F2), spot lamps (SAE-O), warning lamps (SAE-W, W2, W3), and daytime running lamps (DRLs) (SAE-Y2).

NOTE: Any light or lighting device not defined or otherwise authorized in 19VAC30-70-140 through 19VAC30-70-200 that is installed on a vehicle shall not be considered for inspection as long as it remains unlit during the inspection and is not wired to activate with any required lighting system in this chapter.

B. School buses may be equipped with an eight-lamp warning system of two red and two amber warning lamps of an approved type (SAE-W2) on the front and rear of such vehicle.

1. School buses may also be equipped with roof-mounted flashing white or amber warning lamps of an approved type (SAE-W2).

2. In addition to required warning lamps, school buses may be equipped with a stop signal arm consisting of an octagonal sign ~~which~~ that meets FMVSS specifications (Federal Motor Vehicle Safety Standards, 49 CFR Part 571). The stop signal arm shall be reflectorized or be equipped with two red warning lamps of an approved type.

~~C. There is no limit on the number of backup lamps that a vehicle may have so long as they are of an approved type (SAE R).~~

~~D. C.~~ No more than four lamps, including two headlamps, may be lighted at any time to provide general illumination ahead of the vehicle. An approved headlamp assembly that contains bulbs for both high and low beams within the same housing shall be considered one headlamp.

~~E. Approved type (SAE W) (i) blue; (ii) blue and red; (iii) blue and white; or (iv) red, white, and blue lights are permitted on Department of Corrections vehicles designated by the Director of the Department of Corrections and any law enforcement vehicle. Law enforcement vehicles may also be equipped with steady burning blue or red warning lights of types approved by the superintendent.~~

~~1. Approved type secondary warning lights installed only on the four corners, on law enforcement vehicles, Department of Corrections, fire apparatus, government owned vehicle operated on official business by a local fire chief or other local fire official, rescue squad vehicle, ambulance, or any other emergency medical vehicles. These lights shall also have primary warning lights installed.~~

~~2. The hide-away or undercover strobe lights shall be installed in the headlamp assemblies, side marker lights, tail lights or parking lights. The strobe itself must be clear and the lens color must continue to be the same type and color as originally approved.~~

~~3. Approved type (SAE W) red warning lights or red and white lights showing to the front are permitted on fire department vehicles, including publicly owned state forest warden vehicles, ambulances, any rescue vehicle used for emergency calls, local department of emergency management, animal warden vehicles, school buses and vehicles used by security personnel at the Newport News Shipbuilding and Drydock Company, Bassett-Walker, Incorporated, the Tultex Corporation, the Winchester Medical Center, or the National Aeronautics and Space Administration's Wallops Flight Facility.~~

Regulations

~~4. No more than two flashing or steady burning red lights or red and white combination lights of an approved type (SAE-W) may be installed on one vehicle owned by any member of a fire department, volunteer fire company or volunteer rescue squad, any ambulance driver employed by a privately owned ambulance service, and any police chaplain.~~

~~F. Vehicles mentioned in subsection E of this section permitted to be equipped with flashing, blinking or alternating (i) blue; (ii) blue and red; (iii) blue and white; or (iv) red, white, and blue emergency lights (except vehicles owned by any member of a fire department, volunteer fire company, volunteer rescue squad or any ambulance driver employed by a privately owned ambulance service) may be equipped with the means to flash their headlamps when their emergency warning lamps are activated provided:~~

- ~~1. The headlamps are wired to allow either the upper beam or lower beam to flash but not both.~~
- ~~2. The headlamp system includes a switch or device which prevents flashing of headlamps when headlamps are required to be lighted pursuant to current statute.~~
- ~~3. Emergency vehicles in Chesapeake, Poquoson, and York County may be equipped with flashing headlights that will function whenever their warning lights are activated.~~

~~G. Any firefighting vehicle, ambulance, rescue or life saving vehicle, Virginia Department of Transportation vehicle, or tow truck may be equipped with clear auxiliary lamps which shall be used exclusively for lighting emergency scenes. Such lamps shall be of a type permitted by the superintendent. Any government owned police vehicle may be equipped with clear auxiliary lamps of a type approved by the superintendent.~~

~~H. Approved type (SAE-W) amber flashing, blinking or alternating lights are permitted on vehicles used for the principal purpose of towing or servicing disabled vehicles or in constructing, maintaining and repairing highways or utilities on or along public highways and vehicles used for the principal purpose of removing hazardous or polluting substances from the state waters or drainage areas on or along public highways. Such lamps are permitted on vehicles used for servicing automatic teller machines, refuse collection vehicles, hi rail vehicles and on vehicles used for towing or escorting over-dimensional materials, equipment, boats, or manufactured housing units by authority of highway hauling permit.~~

- ~~1. Approved type (SAE-W) amber flashing, blinking or alternating lights are permitted on fire apparatus, government owned vehicles operated on official business by a local fire chief or other local fire official, rescue squad vehicles, ambulances, and any other emergency medical vehicles to be equipped with alternating blinking or flashing red, or red and white secondary lights mounted inside the vehicle's tail lights or marker lights.~~

~~2. Approved type (SAE-W) amber flashing, blinking or alternating lights are permitted on vehicles owned and used by municipal safety officers in the performance of their official duties, businesses providing security services and vehicles used to collect and deliver the United States mail, vehicles used by law enforcement personnel in the enforcement of laws governing motor vehicle parking, government owned law enforcement vehicles provided the lights are used for giving directional warning, and vehicles used to provide escort for funeral processions. Directional warning lights shall not be utilized while in motion.~~

~~3. Approved type (SAE-W) amber flashing, blinking or alternating lights are permitted on vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track.~~

~~4. An approved type (SAE-W) amber flashing, blinking or alternating light may be mounted on the rear of any vehicle used to transport petroleum products. The light must be wired through the reverse gear circuit and activate in conjunction with the back-up lights and audible alarm.~~

~~5. An approved type (SAE-W) green warning light is permitted on vehicles used by police, firefighting, or rescue personnel as command centers at the scene of incidents. Such lights shall not be activated while the vehicle is operating upon the highway.~~

~~6. Approved type (SAE-W) colored warning lights may be used by dealers or businesses engaged in the sale of fire, emergency medical services, or law enforcement vehicles. They may, for demonstration purposes, equip such vehicles with colored warning lights.~~

~~F. D. Inspectors shall rely on Article 3 (§ 46.2-1010 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia to determine if a vehicle should be allowed to have such lighting (such as emergency vehicles or dealer demo vehicles).~~

~~E. Inspect for and reject if:~~

- ~~1. Auxiliary lamp is being used for a purpose other than for which it is manufactured or previously approved by the superintendent as defined in subsection A of this section.~~
- ~~2. Auxiliary lamp does not have a clear lens.~~
- ~~3. Any reflector in such auxiliary lamp device is not clear.~~

~~EXCEPTIONS: An auxiliary lighting device that is both covered and unlit shall not be considered for inspection. An auxiliary lighting device that has a clear lens, has clear reflectors, and is unlit shall not be considered for inspection. Fog and driving lamps mounted below the level of the regular headlamps must be checked for aim as outlined in subdivisions I 12 h and 13 f of this section if not covered.~~

~~NOTE: The covers shall be a type that would be installed as original equipment and not tape, paper bags, aluminum foil or similar materials.~~

~~4.~~ 2. A vehicle has installed on it a warning lamp (SAE-W) that is not of an approved type or has been altered.

~~Reject if the vehicle~~ 3. Vehicle has wire, unapproved lens or plastic covers, any other materials that are not original equipment or any colored material placed on or in front of any auxiliary lamps: backup, cornering, driving, fog, spot, or warning lamps.

~~5.~~ 4. Motor vehicles may be equipped with more than two fog or auxiliary lights; however, only two of these types of lights can be illuminated at any time. Reject a vehicle equipped with a headlamp mounted or used as an auxiliary lamp.

~~6.~~ 5. Vehicle is equipped with an auxiliary lamp that does not function properly. (If an auxiliary lamp has been modified by removing the wiring, bulb and socket, the unit will be considered an ornament and not a lamp and will not be considered in inspection.)

~~7.~~ 6. Vehicle is equipped with a lighted advertising sign, except commercial motor vehicles, buses operated as public carriers, taxicabs, and privately-owned passenger cars used for home delivery of commercially prepared food. Commercial motor vehicles, buses operated as public carriers, and taxicabs may be equipped with vacant and destination signs and one steady burning white light for the nighttime illumination of external advertising. Privately-owned passenger cars used for home delivery of commercially prepared food may be equipped with one steady burning white light for the nighttime illumination of a sign identifying the business delivering the food. Do not reject approved identification lights.

~~8. Any lamp is not of an approved type or if lamps to be burned together as a pair do not emit the same color light.~~

~~9.~~ 7. The lens has a piece broken from it. The lens may have one or more cracks provided an off-color light does not project through the crack. Taping or gluing cracks or pieces is not permitted.

~~10.~~ 8. Backup lamps are not required. However, if installed they must operate and be inspected.

Inspect for and reject if:

- a. Required lamps are not of an approved type (SAE-R) or a lamp has been altered;
- b. Wiring or electrical connections are defective or filaments do not burn;
- c. The lens has a piece broken from it. The lens may have one or more cracks provided an off-color light does not project through the crack. Taping or gluing cracks or pieces is not permitted;
- d. Lens is other than clear. LED (light-emitting diode) lights with a clear lens are acceptable if of an approved type. For those vehicles that are equipped with a multiple

LED light (not filament-burning bulbs), they will pass inspection if more than 50% of the diode lights are burning;

e. Lamps are not wired into the reverse gear. Vehicles manufactured without backup lamps may be wired into an independent circuit.

f. Any backup lamps do not emit white light.

~~11.~~ 9. Cornering lamps are not required. However, if installed they must operate and be inspected.

Inspect for and reject if:

- a. Required lamps are not of an approved type (SAE-K) or a lamp has been altered;
- b. Wiring or electrical connections are defective or filaments do not burn;
- c. The lens has a piece broken from it. The lens may have one or more cracks provided an off-color light does not project through the crack. Taping or gluing cracks or pieces is not permitted;
- d. The color of the light and lens is other than clear or amber;
- e. The lamps do not burn in conjunction with the turn signals.

~~12.~~ 10. Driving lamps are not required. However, if installed they must operate and be inspected.

Inspect for and reject if:

- a. Driving lamps are installed on vehicles equipped with the four-headlamp system, except the "F" type headlamp system;
- b. Driving lamps are not of an approved type or have been altered;
- c. The color of the lamp is other than white or the lens is not clear;
- d. The lens has a piece broken from it or is rotated away from its proper position. The lens may have one or more cracks provided an off-color light does not project through the crack. Taping or gluing cracks or pieces is not permitted;
- e. Wiring or electrical connections are defective;
- f. Any driving lamp is mounted above the level of the regular headlamps, or is not mounted firmly to prevent excessive vibration;
- g. Driving lamps are not wired so that they will burn only when the high beams of the regular headlamps are activated;
- h. Driving lamps are not aimed so that the center of the hot spot drops three inches in 25 feet so that the hot spot is directly ahead of the lamp.

Regulations

NOTE: Driving lamps must be aimed using the optical headlight aimer. A tolerance of four inches in 25 feet is allowed in both the horizontal and the vertical adjustment.

~~13.~~ 11. Fog lamps are not required. However, if installed they must operate and be inspected.

Inspect for and reject if:

- a. A vehicle may be equipped with more than two fog lamps; however, not more than two fog lamps can be illuminated at any time;
- b. The lens or light is other than clear or amber. Fog lamps may have black-end bulbs or small metal caps over the end of the bulb;
- c. The lens has a piece broken from it or is rotated away from its proper position. The lens may have one or more cracks provided an off-color light does not project through the crack. Taping or gluing cracks or pieces is not permitted;
- d. Wiring or electrical connections are defective or filaments do not burn;
- e. Any fog lamp is mounted above the level of the regular headlamps, or is not mounted firmly;
- f. Lamps are not wired and aimed according to the following instructions:

(1) Fog lamps are general illumination lamps as covered in subsection A of this section. They must burn through the tail light circuit even if on a separate switch. If installed on a vehicle with a four-headlamp system, or a vehicle equipped with driving lamps, they must be wired into the low beam circuit.

(2) Fog lamps must be aimed so that the top edge of the high intensity zone is set at the horizontal centerline and the left edge of the high intensity zone is set at the vertical centerline. (Same as low beam headlights.)

NOTE: Fog lamps must be aimed using the optical headlight aimer. A tolerance of four inches in 25 feet is allowed in both the horizontal and the vertical adjustment.

~~14.~~ 12. Spot lamps are not required; however, if installed they must operate and be inspected.

Inspect for and reject if:

- a. Vehicle is equipped with more than two spot lamps;
- b. Lamps are not of an approved type (SAE-O) or a lamp has been altered;
- c. The lens in any spot lamp is other than clear or light is not white;
- d. The lens has a piece broken from it or is rotated away from its proper position. The lens may have one or more cracks provided an off-color light does not project through the crack. Taping or gluing cracks or pieces is not permitted;

e. Wiring or electrical connections are defective or filaments do not burn.

~~15.~~ 13. Daytime running lamps (DRLs) are not required. However, if installed they must operate and be inspected. DRLs must be installed in pairs.

NOTE: DRLs may or may not be wired into the tail light circuit.

Inspect for and reject if:

- a. Any lamp, except headlamps, used as DRLs if not an approved type (SAE-Y2) and is not marked "DRL";
- b. Fog lamps or parking lamps are used as DRLs;
- c. More than one pair of lamps is used and designated as DRLs;
- d. A DRL is mounted higher than 34 inches measured to the center of the lamp; or
- e. The color is other than white to amber;
- ~~f. DRLs do not deactivate when the headlamps are in any "on" position.~~

NOTE: Any DRL optically combined with a turn signal or hazard lamp must deactivate when the turn signal or hazard lamp is activated and then reactivate when the turn signal or hazard lamp deactivates.

19VAC30-70-190. Signal device (intention to stop or turn), hazard lights, stop lamp.

A. Any motor vehicle may be equipped with a switch that will permit all turn signal lamps to flash simultaneously.

B. Supplemental turn signals, properly wired into the turn signal circuit, may be installed. These may be either approved type turn signals or clearance lamps.

C. Single face lamps are permissible on the front, except tractor units shall be equipped with two-faced lamps mounted on the front fenders or on or near the front of the vehicle.

D. Inspect for and reject if:

1. Motor vehicle, or trailer, except an antique vehicle not originally equipped with a stop lamp, is not equipped with at least two brake lights of an approved type (DOT or SAE-S) that automatically exhibits a red or amber light to the rear when the brake pedal is actuated.

2. Every passenger car manufactured for the 1986 or subsequent model year and multipurpose passenger vehicle, truck, or bus whose overall width is less than 80 inches, manufactured September 1, 1993, and subsequent model year is not equipped with a supplemental center high mount stop lamp of an approved type (DOT or SAE-U, U1 or U2) mounted at the vertical centerline of the vehicle which functions only in cooperation with the vehicle's stop lamps, brake lights, and hazard lights. Any other vehicle on which a supplemental center high mount stop lamp is mounted shall

have the lamp mounted at the vertical center line of the vehicle. The lamps shall be of an approved type and shall function only in conjunction with the stop lamps. The high mount stop lamp must be steady burning and not wired to flash with turn signals or other wig-wag device.

"Multipurpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use.

NOTE: Camper shells or rear spoilers that obscure the original manufacturer's high mount stop lamp must be equipped with a center high mount stop lamp in good working order.

NOTE: The original manufacturer's center high mount stop lamp will not be considered for inspection if it is obscured by a camper shell or rear spoiler that is equipped with a center high mount stop lamp of an approved type.

~~NOTE: Multipurpose passenger vehicles with an overall width of 80 or more inches or GVWR of 10,000 pounds or more are not required to be equipped with a center high mount stop light.~~

NOTE: No sticker or other foreign material shall be affixed to the vehicle in such a manner so as to obscure the center high mount stop lamp.

3. Proper signals do not go on with each throw of the switch or if stop signals do not go on with slightest pressure on the brake pedal. Turn signals may flash, however stop signals may not flash except when the vehicle is equipped with a brake warning system or device which will cause the brake lights to flash when the vehicle is in motion but committed to an emergency or panic stop.

4. Motor vehicle was manufactured after January 1, 1955, and is not equipped with approved signaling devices (SAE-I).

5. Vehicle is not equipped with a turn signal if such signal is not working properly or does not continue to function in the same manner as when it was originally manufactured. (The turn signal switch shall lock in place when positioned for a left turn or a right turn, and the turn signal indicators must function. Do not reject a vehicle if the self-canceling mechanism in the switch does not function when the steering wheel is rotated.).

6. Switch is not convenient to the driver and not of an approved type.

7. Any vehicle so constructed so as to prevent the operator from making a hand and arm signal, if such vehicle is not equipped with an approved type signaling device.

8. Turn signal lens is not clear or amber to the front, or red or amber to the rear. Lens or bulb color has been altered or

modified. If the turn signal lens is clear, then the bulb shall be amber.

NOTE: The pink color lens found on 1998 and 1999 Honda Accords emit the proper color light (amber) when the lamp is activated. There may be other manufacturers using the same configuration and are not in violation of the Federal Motor Vehicle Safety Standards.

9. Wiring or electrical connections are defective or filaments do not burn.

NOTE: LED (light-emitting diode) lights with a clear lens are acceptable if of an approved type. For those vehicles that are equipped with a multiple LED light (not filament-burning bulbs), they will pass inspection if more than 50% of the diode lights are burning.

10. Lens has a piece broken from it. The lens may have one or more cracks provided an off-color light does not project through the cracks. Taping or gluing cracks or pieces is not permitted.

11. The hazard warning signal operating unit does not operate independently of the ignition or equivalent switch and when activated cause all turn signals to flash simultaneously.

NOTE: They are deemed not to be installed if none of the lights burn or flash when the switch is activated and the hazard warning signal flasher unit has been removed.

12. Device is not mounted near the rear for rear signals or near the front for front signals (except supplemental turn signals) or if the signal is hidden by a bolster or other part of body chassis.

13. All "Class A" signals are not mounted at least three feet apart. (This does not apply to the combination rear signal device.) However, signal lamps that are mounted as far apart as practical inside and at the rear of the frame so as to be properly visible will meet inspection requirements.

14. Any vehicle has wire, unapproved lens or plastic covers, any other materials that are not original equipment or any colored material placed on or in front of the signal device (intention to stop or turn), hazard lights, or stop lamp.

19VAC30-70-290. Seat belts; definitions.

A. Definitions:

"Bus" means a motor vehicle with motive power designed to carry more than 10 persons.

"Designated seating position" means any plain view (looking down from the top) location intended by the manufacturer to provide seating accommodations while the vehicle is in motion, except auxiliary seating accommodations as temporary or folding jump seats.

"Front outboard designated seating positions" means those designated seating positions for the driver and outside front seat

Regulations

passenger (except for trucks which have the passenger seat nearest the passenger side door separated from the door by a passageway used to access the cargo area).

"GVWR" means Gross Vehicle Weight Rating as specified by the manufacturer (loaded weight of a single vehicle).

"Multi-purpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use. This shall include a mini-van.

"Open-body type vehicle" means a vehicle having no occupant compartment top or an occupant compartment top that can be installed or removed by the user at his the user's convenience.

"Passenger car" means a motor vehicle with motive power except a multipurpose passenger vehicle or motorcycle designed for carrying 10 persons or less.

"Rear outboard front facing designated seating positions" means those designated seating positions for passengers in outside front facing seats behind the driver and front passenger seat, except any designated seating position adjacent to a walk-way, that is located between the seat and the rear side of the vehicle and is designated to allow access to more rearward seating positions.

"Truck" means a motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment.

B. Passive restraint system.

1. Inflatable occupant restraint (commonly known as air bags).
2. Passive belt system (automatic deployment around the occupant after the occupant enters the vehicle and closes the door).

C. Inspect for and reject if:

1. Not of an approved type; (see approved equipment section for seat belts)
2. Installation not in compliance as follows:
 - a. All motor vehicle seat belt anchorages and attachment hardware must meet the standards and specifications set forth by the Society of Automotive Engineers, Inc., and Federal Motor Vehicle Safety Standard No. 209 (49 CFR 571.209), for such anchorages and attachment hardware;
 - b. Any questions concerning the proper installation of seat belt assemblies should be directed to the nearest Safety Division office.
3. Any 1963 and subsequent model vehicle, designed and licensed primarily for private passenger use, is not equipped with adult safety lap belts for at least two front seats or a combination of lap belts and shoulder straps or harnesses.
4. Any passenger car manufactured on or after January 1, 1968, is not equipped with lap/shoulder or harness seat belt assemblies located at the front outboard designated seating

positions (except in convertibles) and lap seat belt assemblies located at all other designated seating positions.

5. Any convertible passenger car manufactured on or after January 1, 1968, does not have a lap seat belt assembly for each designated seating position.

6. Any passenger car manufactured on or after December 11, 1989, (except convertibles) not equipped with lap/shoulder seat belt assemblies located at all forward facing rear outboard designated seating positions.

- a. Any passenger car manufactured on or after September 1, 1991, (including convertibles) is not equipped with a lap/shoulder seatbelt assembly located at all forward facing rear outboard designated seating positions.

- b. Any truck, multipurpose vehicle, or bus (except school buses and motor homes) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, manufactured on or after September 1, 1991, is not equipped with a lap/shoulder seatbelt assembly at all forward facing rear outboard designated seating positions.

- c. Any of the heretofore described vehicles manufactured on or after September 1, 1992, are not equipped with lap/shoulder seatbelt assembly located at all forward facing rear outboard designated seating positions on a readily removable seat.

7. Any of the following motor vehicles manufactured on or after July 1, 1971, do not have a lap seat belt assembly for each designated seating position:

- a. Open-body type vehicles;
- b. Walk-in van type trucks;
- c. Trucks (GVWR in excess of 10,000 pounds);
- d. Multipurpose passenger vehicles (GVWR in excess of 10,000 pounds).

8. Any buses manufactured on or after July 1, 1971, do not have a lap seat belt assembly for the driver's seating position.

9. All other motor vehicles manufactured on or after January 1, 1976, except those for which requirements are specified in subdivisions 3 and 4 of this subsection, do not have lap/shoulder or harness seat belt assemblies installed for each front outboard designated seating position. Those vehicles originally equipped and sold by the manufacturer with only a lap belt installed for each designated seating position in compliance with Federal Motor Vehicle Safety Standards (49 CFR Part 571) will be deemed to be in compliance with this section.

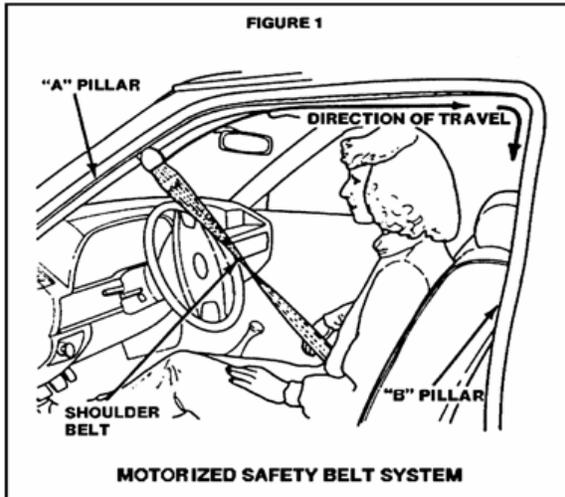
10. Any seat belt buckle, webbing, or mounting is cut, torn, frayed, or no longer operates properly.

11. Any seat belt anchorage is loose, badly corroded, missing, or not fastened to belt.

D. Safety belts (motorized). Enter the vehicle and close the door. Insert the key into the ignition and turn to the on position. A motor causes the shoulder belt to slide along a track (Figure 1) starting at the front body "A" pillar and moving rearward to its locked position at the "B" pillar. The seat belt warning indicator lamp

should illuminate with the lap belt unbuckled. When the ignition is turned to the off position and the door is opened, the shoulder belt moves forward to the "A" pillar.

NOTE: Do not reject if the motor is inoperative and the shoulder belt is permanently "locked" at pillar "B."



E. Air bag and air bag readiness light.

Inspect for and reject if:

1. Any defects in the air bag system are ~~noted by the air bag readiness light or otherwise indicated~~ visible or obvious;
2. The air bag has been deployed and has not been replaced (and is not deactivated because of a medical or other exemption and a notice is posted to indicate that it has been deactivated); or
3. Any part of the air bag system has been ~~disabled or removed from the vehicle; or~~
4. ~~If the air bag indicator fails to light or stays on continuously.~~

NOTE: Checking the air bag readiness light. Turn the ignition key to the on position; the air bag readiness light will indicate normal operation by lighting for six to eight seconds, then turning off. A system malfunction is indicated by the flashing or continuous illumination of the readiness light or failure of the light to turn on.

NOTE: Any vehicle not originally manufactured with an air bag readiness light shall not be rejected for not having this item.

NOTE: Airbag readiness light check is advisory only and not cause for rejection. Advise customer to make them aware, but do not reject.

19VAC30-70-330. Motorcycle inspection. (Repealed.)

All motorcycles shall be inspected according to the following sections. In cities, towns, and counties having a motorcycle repair shop or shops appointed as an official inspection station, motorcycle inspections may be performed at these places. In localities where no motorcycle inspection station is located, such inspections shall be made by any official inspection station provided a certified inspector observes a satisfactory brake test and completes the remainder of the inspection according to regulations.

19VAC30-70-530. Auxiliary lamps: backup; cornering; driving; fog; spot and warning.

A. Auxiliary lamps on a vehicle consist of seven general types: backup lamps (SAE R), cornering lamps (SAE K), driving lamps (SAE Y), front fog lamps with an amber or clear lens (SAE F) and rear fog lamps with red lens (SAE F2), spot lamps (SAE O), warning lamps (SAE W), and daytime running lamps (DRLs) (SAE Y2).

1. School buses may be equipped with an eight lamp warning system of two red and two amber warning lamps of an approved type (SAE W2) on the front and rear of such vehicle.

a. In addition to required warning lamps, school buses may be equipped with a stop signal arm consisting of an octagonal sign that meets FMVSS specifications (Federal Motor Vehicle Safety Standards, 49 CFR Part 571). The stop signal arm shall be reflectorized or be equipped with two red warning lamps of an approved type.

b. School buses may also be equipped with roof mounted flashing white or amber warning lamps of an approved type (SAE W2).

2. Reject if the vehicle has wire, unapproved plastic covers, any other materials that are not original equipment or any colored material placed on or in front of any auxiliary lamps, backup, cornering, driving, fog, spot or warning lamps.

EXCEPTION: Any lighting device that is both covered and not illuminated, other than lamps required or permitted by this manual, shall not be considered for inspection. Fog and driving lamps mounted below the level of the regular headlights must be checked for aim as outlined in subdivisions K 10 i and K 11 g of this section, if not covered.

NOTE: The covers shall be a type that would be installed as original equipment and not tape, paper bags, aluminum foil or similar materials.

B. There is no limit on the number of backup lamps that a vehicle may have so long as they are of an approved type (SAE R).

C. No more than four lamps, including two headlamps may be lighted at any time to provide general illumination ahead of the vehicle.

Regulations

~~D. Approved type (SAE W) blue or blue and red lights are permitted on Department of Corrections vehicles designated by the Director of the Department of Corrections and any law enforcement vehicle.~~

~~E. Approved type blue or blue and red lights as well as approved type hide away or undercover strobe warning lights are permissible for use on Department of Corrections and any law enforcement vehicles.~~

~~1. Approved type secondary warning lights installed only on the four corners, on Department of Corrections and any law enforcement vehicles, fire apparatus, government owned vehicle operated on official business by a local fire chief or other local fire official, rescue squad vehicle, ambulance, or any other emergency medical vehicles. These lights shall also have primary warning lights installed.~~

~~2. The hide away or undercover strobe lights shall be installed in the side marker lights, tail lights or parking lights. The strobe itself must be clear and the lens color must continue to be the same type and color as originally approved. It will not be permissible to install the hide away lights in the headlights or in the backup lights.~~

~~F. Approved type (SAE W) red warning lights or red and white lights showing to the front are permitted on fire department vehicles, including publicly owned state forest warden vehicles, ambulances, any rescue vehicle used for emergency calls, local Departments of Emergency Management, animal warden vehicles, school buses and vehicles used by security personnel at the Newport News Shipbuilding and Drydock Company, Bassett Walker, Incorporated, the Tultex Corporation, the Winchester Medical Center, or the National Aeronautics and Space Administration's Wallops Flight Facility.~~

~~G. No more than two flashing or steady burning red or combination red and white lights of an approved type may be installed on one vehicle owned by any member of a fire company, volunteer fire company, volunteer rescue squad or any ambulance driver employed by a privately owned ambulance service.~~

~~H. Vehicles mentioned in subsections D, E and F of this section permitted to be equipped with flashing, blinking or alternating red, red and white, blue, or blue and red emergency lights (except vehicles owned by any member of a fire company, volunteer fire company, volunteer rescue squad or an ambulance driver employed by a privately owned ambulance service) may be equipped with the means to flash their headlamps when their emergency warning lamps are activated provided:~~

~~1. The headlamps are wired to allow either the upper beam or lower beam to flash but not both and;~~

~~2. The headlamp system includes a sensor that prevents flashing of headlamps when headlamps are required to be lighted pursuant to current statute.~~

~~Emergency vehicles in Chesapeake, Poquoson, and York County may be equipped with flashing headlights that will function whenever their warning lights are activated.~~

~~I. Any fire vehicle used exclusively for firefighting, any ambulance or rescue or lifesaving vehicle used for the principal purpose of emergency relief or any wrecker used for the principal purpose of towing disabled vehicles may be equipped with clear auxiliary lamps that shall be used exclusively for lighting emergency scenes. Such lamps shall be of a type permitted by the superintendent. Any government owned police vehicle may be equipped with clear auxiliary lamps of a type approved by the superintendent.~~

~~J. Approved type (SAE W) amber flashing, blinking or alternating lights are permitted on vehicles used for the principal purpose of towing or servicing disabled vehicles or in constructing, maintaining and repairing highways or utilities on or along public highways and vehicles used for the principal purpose of removing hazardous or polluting substances from the state waters or drainage areas on or along public highways. Such lamps are permitted on vehicles used for servicing automatic teller machines, refuse collection vehicles, hi rail vehicles and on vehicles used for towing or escorting over-dimensional materials, equipment, boats, or manufactured housing units by authority of highway hauling permit.~~

~~1. Approved type (SAE W) amber, red, and red and white flashing, blinking or alternating warning lights are permitted on fire apparatus, ambulances, and rescue and life saving vehicles, provided the lights are mounted or installed as to be visible from behind the vehicle.~~

~~2. Approved type (SAE W) amber flashing, blinking or alternating lights are permitted on vehicles owned and used by municipal safety officers in the performance of their official duties, by businesses providing security services and vehicles used to collect and deliver the United States mail, vehicles used by law enforcement personnel in the enforcement of laws governing motor vehicle parking, and government owned law enforcement vehicles provided the lights are used for giving directional warning and vehicles used to provide escort for funeral processions.~~

~~3. An approved type amber flashing, blinking or alternating lights are permitted on vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track.~~

~~4. An approved type (SAE W) amber flashing, blinking or alternating light may be mounted on the rear of any vehicle used to transport petroleum products. The light must be wired through the reverse gear circuit and activate in conjunction with the backup lights and audible alarm.~~

5. An approved type (SAE W) green warning light is permitted on vehicles used by police, firefighting, or rescue personnel as command centers at the scene of incidents. Such lights shall not be activated while the vehicle is operating upon the highway.

K. Inspect for and reject if:

1. Vehicle has an auxiliary lamp being used for a purpose other than that for which it was approved.

Do not reject tractor trucks equipped with cargo lights of an approved type (SAE G) that are mounted on the rear of the tractor cab and wired through an independent switch used to illuminate brake connectors and fifth wheels for nighttime hookups.

2. A vehicle has installed on it a warning lamp that is not of an approved type or has been altered.

3. Vehicle is equipped with a combination of auxiliary lamps which include more than two fog lamps, or more than two spot lamps, or more than two driving lamps. Motor vehicles may be equipped with more than two fog or auxiliary lights; however, only two of these types of lights can be illuminated at any time. Reject a vehicle equipped with a headlamp mounted or used as an auxiliary lamp.

NOTE: Vehicles equipped from the factory, with two driving lamps should not be rejected.

4. Vehicle is equipped with an auxiliary lamp that does not function properly. (If an auxiliary lamp has been modified by removing the wiring, bulb and socket, the unit will be considered an ornament and not a lamp and will not be considered for inspection.)

5. Vehicle is equipped with a lighted advertising sign, except commercial motor vehicles and buses operated as public carriers. These vehicles may be equipped with vacant and destination signs and one steadily burning white light for illumination of external advertising. Do not reject approved identification lights.

6. Any lamp is not of an approved type or if lamps to be burned together as a pair do not emit the same color light.

7. The lens has a piece broken from it. The lens may have one or more cracks provided an off color light does not project through the crack or cracks.

8. Backup lamps are not required on motor vehicles less than 26,001 pounds GVWR. However, if installed they must operate and be inspected.

Inspect for and reject if:

- a. Lamps are not of an approved type (SAE R) or a lamp has been altered.
- b. Wiring or electrical connections are defective or filaments do not burn.

e. The lens has a piece broken from it. The lens may have one or more cracks provided an off color light does not project through the crack or cracks.

d. Lens is other than clear. LED (light emitting diode) lights with a clear lens are acceptable, if of an approved type. For those vehicles that are equipped with a multiple LED light (not filament burning bulbs), they will pass inspection if more than 50% of the diode lights are burning.

e. Lamps are not wired into the reverse gear. Vehicles manufactured without backup lamps may be wired into an independent circuit.

9. Cornering lamps are not required. However, if installed they must operate and be inspected.

Inspect for and reject if:

a. Lamps are not of an approved type (SAE K) or a lamp has been altered.

b. Wiring or electrical connections are defective or filaments do not burn.

e. The lens has a piece broken from it. The lens may have one or more cracks provided an off color light does not project through the crack or cracks.

d. The color of the light is other than clear or amber.

e. The lamps do not burn in conjunction with the turn signals.

10. Driving lamps are not required. However, if installed they must operate and be inspected.

Inspect for and reject if:

a. Driving lamps are installed on vehicles equipped with the four headlamp system, except the "F" type headlamp system.

b. A vehicle is equipped with more than two driving lamps.

e. Driving lamps are not of an approved type (SAE Y) or have been altered.

d. The color of the lamp is other than white.

e. The lens has a piece broken from it or is rotated away from its proper position. The lens may have one or more cracks provided an off color light does not project through the crack or cracks.

f. Wiring or electrical connections are defective or filaments do not burn.

g. Any driving lamp is mounted above the level of the regular headlamps, or is not mounted firmly to prevent excessive vibration.

h. Driving lamps are not wired so that they will burn only when the high beams of the regular headlamps are activated.

i. Driving lamps are not aimed so that the center of the hot spot drops three inches in 25 feet so that the hot spot is directly ahead of the lamp.

NOTE: Driving lamps must be aimed using the optical headlight aimer. A tolerance of four inches in 25 feet is allowed in both the horizontal and the vertical adjustment.

11. Fog lamps are not required. However, if installed they must operate and be inspected.

Regulations

Inspect for and reject if:

- ~~a. A vehicle may be equipped with more than two fog lamps; however, not more than two lamps can be illuminated at any time.~~
- ~~b. Lamps are not of an approved type (SAE or DOT F or F2) or a lamp has been altered.~~
- ~~c. The lens is other than clear or amber. (Fog lamps may have black end bulbs or small metal caps over the end of the bulb.)~~
- ~~d. The lens has a piece broken from it or is rotated away from its proper position. The lens may have one or more cracks provided an off-color light does not project through the crack or cracks.~~
- ~~e. Wiring or electrical connections are defective or filaments do not burn.~~
- ~~f. Any fog lamp is mounted above the level of the regular headlamps, or is not mounted firmly.~~
- ~~g. Lamps are not wired and aimed according to the following instructions:~~

~~(1) Fog lamps are general illumination lamps as covered in 19VAC30-70-160 D. They must burn through the tail light circuit even if on a separate switch. If installed on a vehicle with a four headlamp system or a vehicle equipped with driving lamps, they must be wired into the low beam circuit.~~

~~(2) Fog lamps must be aimed so that the top edge of the high intensity zone is set at the horizontal centerline and the left edge of the high intensity zone is set at the vertical centerline. (Same as low beam headlights.)~~

~~NOTE: Fog lamps must be aimed using the optical headlight aimer.~~

~~(3) A tolerance of four inches in 25 feet is allowed in both the horizontal and the vertical adjustment.~~

~~12. Spot lamps are not required. However, if installed they must operate and be inspected.~~

Inspect for and reject if:

- ~~a. Vehicle is equipped with more than two spot lamps.~~
- ~~b. Lamps are not of an approved type (SAE O) or a lamp has been altered.~~
- ~~c. The lens in any spot lamp is other than clear.~~
- ~~d. The lens has a piece broken from it or is rotated away from its proper position. The lens may have one or more cracks provided an off-color light does not project through the crack or cracks.~~
- ~~e. Wiring or electrical connections are defective or filaments do not burn.~~

~~13. Daytime running lamps (DRLs) are not required. However, if installed they must operate and be inspected. DRLs must be installed in pairs.~~

~~NOTE: DRLs may or may not be wired into the tail light circuit.~~

Inspect for and reject if:

- ~~a. Any lamp, except headlamps, used as DRLs is not an approved type (SAE Y2) and is not marked "DRL."~~

~~b. Fog lamps or parking lamps are used as DRLs.~~

~~c. More than one pair of lamps are used and/or designated as DRLs.~~

~~d. A DRL is mounted higher than 34 inches measured to the center of the lamp.~~

~~e. The color is other than white or amber.~~

~~f. DRLs do not deactivate when the headlamps are in any "on" position.~~

~~Any DRL optically combined with a turn signal or hazard lamp must deactivate when the turn signal or hazard lamp is activated and then reactivate when the turn signal or hazard lamp deactivates.~~

For auxiliary lamps on vehicles over 10,000 pounds, refer to 19VAC30-70-160 as the same requirements apply.

NOTE: Do not reject tractor trucks equipped with cargo lights of an approved type (SAE-G) that are mounted on the rear of the tractor cab and wired through an independent switch used to illuminate brake connectors and fifth-wheels for night time hook-ups.

19VAC30-70-560. Signal device (intention to stop or turn), hazard lights, stop lamps.

A. Any motor vehicle may be equipped with a switch that will permit all turn signal lamps to flash simultaneously.

B. Supplemental turn signals, properly wired into the turn signal circuit may be installed. These may be either approved type turn signals or clearance lamps.

~~C. Single face lamps are permissible on the front except tractor units shall be equipped with two faced lamps mounted on the front fenders or on or near the front of the vehicle.~~

~~D. C.~~ Inspect for and reject if:

1. Motor vehicle or trailer, except an antique vehicle not originally equipped with a stop lamp, is not equipped with at least two stop lamps of an approved type (DOT or SAE-S) that automatically exhibit a light through a red or amber lens to the rear when the brake pedal is actuated.

2. Proper signals do not go on with each throw of the switch or if stop signals do not go on with slightest pressure on the brake pedal. Turn signals may flash; however, stop signals may not flash.

Every passenger car manufactured for the 1986 or subsequent model year and multipurpose passenger vehicle, truck, or bus whose overall width is less than 80 inches, manufactured September 1, 1993, and subsequent model year is not equipped with a supplemental center high mount stop lamp of an approved type (DOT or SAE-U, U1 or U2) mounted at the vertical centerline of the vehicle that functions only in cooperation with the vehicle's brake lights and hazard lights. Any other vehicle on which a supplemental center high mount stop lamp is mounted shall have the lamp mounted at the vertical center line of the vehicle. The lamps shall be of an

approved type and shall function only in conjunction with the stop lamps. The high mount stop lamp must be steady burning and not wired to flash with turn signals or other wig-wag device.

"Multipurpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use.

~~NOTE: Camper shells or rear spoilers that obscure the original manufacturer's high mount stop lamp must be equipped with a center high mount stop lamp in good working order.~~

~~NOTE: The original manufacturer's center high mount stop lamp will not be considered for inspection if it is obscured by a camper shell or rear spoiler that is equipped with a center high mount stop lamp of an approved type.~~

NOTE: Multipurpose passenger vehicles with an overall width of 80 or more inches or GVWR of 10,000 pounds or more are not required to be equipped with a center high mount stop light.

~~NOTE: No sticker or other foreign material shall be affixed to the vehicle in such a manner so as to obscure the center high mount stop lamp.~~

3. Motor vehicle was manufactured after January 1, 1955, and is not equipped with approved signaling devices.

4. Vehicle is not equipped with a turn signal if such signal is not working properly or does not continue to function in the same manner as when it was originally manufactured. (The turn signal switch shall lock in place when positioned for a left turn or a right turn, and the turn signal indicators must function. Do not reject a vehicle if the self-canceling mechanism in the switch does not function when the steering wheel is rotated.)

5. Switch is not convenient to the driver ~~and/or~~ or not of an approved type.

6. Any vehicle constructed so as to prevent the operator from making a hand and arm signal, if such vehicle is not equipped with an approved type signaling device.

7. Turn signal lens is not clear or amber to the front, or red or amber to the rear. Lens or bulb color has been altered or modified. If the lens is clear, then the bulb shall be amber.

NOTE: LED (light-emitting diode) lights with a clear lens are acceptable, if of an approved type. For those vehicles that are equipped with a multiple LED light (not filament-burning bulbs), they will pass inspection if more than 50% of the diode lights are burning.

8. Wiring or electrical connections are defective or filaments do not burn.

9. Lens has a piece broken from it. The lens may have one or more cracks provided an off-color light does not project through the ~~crack(s)~~ cracks.

NOTE: Taping or gluing cracks or pieces is not allowed.

NOTE: The hazard warning signal operating unit shall operate independently of the ignition or equivalent switch, and when activated, cause all turn signals to flash simultaneously.

NOTE: They are deemed not to be installed if none of the lights burn or flash when the switch is activated and the hazard warning signal flasher unit has been removed.

10. Device is not mounted near rear for rear signals, or near front for front signals (except supplemental turn signals) or if the signal is hidden by a bolster or other part of body chassis.

A tractor truck need not be equipped with mechanical or electrical signal devices on the rear if it is equipped with double-faced signal lamps mounted on the front fenders or on the sides near the front of the vehicle clearly visible to the rear.

11. All "Class A" signals are not mounted at least three feet apart. (This does not apply to the combination rear signal device.) However, signal lamps that are mounted as far apart as practical inside and at the rear of the frame so as to be properly visible will meet inspection requirements.

12. Any vehicle has unapproved lens or plastic covers, any other materials that are not original equipment or any colored material placed on or in front of signal device (intention to stop or turn), hazard lights, or stop lamp.

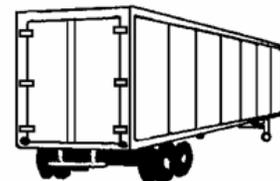
ILLUSTRATIONS FOR PROPER INSTALLATION AND TYPE OF SIGNAL LIGHTS



TRUCK: Front
Permissible --
Class A Type I
Class A Type II
Must show to front -
may use two faced

TRUCK:
Rear
Permissible --
Class A Type
I Class A
Type II
--or--
Combination
Arrow Tail
Stop & Signal

TRACTOR
TRAILER: Front
Permissible --
Class A Type I
Class A Type II
Two faced lamps -
must show to both
front and rear



TRAILER: Rear
Permissible
Class A Type I
Class A Type II

-- or --
Combination
Arrow Tail
Stop & Signal

Regulations

Class A Type I - Are lamps which indicate a change in direction by giving flashing warning signal (clear lens - amber to front; amber to red on rear) on the side toward which the turn will be made.

Class A Type II - Are lamps which indicate a change in direction by means of illuminated arrow heads (flashing or steady) on the side toward which the turn will be made.



19VAC30-70-570. Permissible lighting equipment.

A. Any vehicle may be equipped with any light in accordance with Article 3 (§ 46.2-1010 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia:

1. Running board or courtesy lamps, of not over six candlepower.

~~2. Vacant or destination signs, if a taxicab or bus.~~

~~3. Identification lamps of approved type (SAE P2 or P3).~~

4. ~~2.~~ Interior lights. (Not more than 15 candlepower.)

Exception: This does not apply to alternating, blinking, or flashing colored emergency lights mounted inside law-enforcement vehicles or flashing shielded red or red and white lights, mounted inside vehicles owned or used by members of volunteer fire companies, volunteer rescue squads or owned or used by professional firefighters, or police chaplains. Also, this does not apply to firefighting vehicles equipped with map lights.

~~5.~~ 3. A motor vehicle having a GVWR of 10,001 pounds or more may be equipped with an illuminated bumper guide attached to each end of the front bumper, provided:

a. The light thereon is amber in color and less than six candlepower.

b. The light is wired to burn only in conjunction with the marker or clearance lamps on the vehicle.

~~6.~~ 4. Any approved lamp in good working order when used for the purpose for which it was approved.

B. Inspect for and reject if:

1. Lamps are not of an approved type (DOT or SAE-P2, P3, PC), or do not comply with subsection A of this section.

2. Lamps are not installed on the permanent structure of the vehicle with one as far to the rear and one as far forward as practicable and at a location ~~which that~~ is not less than 15 inches above the road surface when measured from the center of the lamp.

3. Lamps installed on the side to the rear do not project a red light and lamps installed on the front do not project an amber light.

~~4. Lens has a piece broken from it. The lens may have one or more cracks provided no off color light projects through the crack(s).~~

~~5. Wiring or electrical connections are defective or filaments do not burn.~~

~~6. Any vehicle has unapproved lens or plastic covers, any other materials that are not original equipment or any colored material placed on or in front of permissible lighting equipment.~~

NOTE: LED (light-emitting diode) lights with a clear lens are acceptable, if of an approved type. For those vehicles that are equipped with a multiple LED light (not filament-burning bulbs), they will pass inspection if more than 50% of the diode lights are burning.

V.A.R. Doc. No. R24-7692; Filed December 8, 2023, 1:48 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Department of State Police is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 6 of the Code of Virginia, which exempts agency action relating to customary military, naval, or police functions.

Title of Regulation: 19VAC30-101. Regulations Governing Purchases of Handguns within a 30-Day Period (amending 19VAC30-101-20, 19VAC30-101-30, 19VAC30-101-40, 19VAC30-101-70, 19VAC30-101-90; repealing 19VAC30-101-110).

Statutory Authority: § 18.2-308.2:2 of the Code of Virginia.

Effective Date: January 31, 2024.

Agency Contact: Captain Matthew T. Patterson, Criminal Justice Information Services Officer, Department of State Police, 7700 Midlothian Turnpike, North Chesterfield, VA 23235, telephone (804) 674-2023, FAX (804) 674-8531, or email matthew.patterson@vsp.virginia.gov.

Summary:

In response to Executive Order 19 (2022) and Executive Directive One (2022), the amendments (i) conform the firearm holding provision to the statutory five-day period and remove the requirement to provide the Virginia State Police notification by telephone; (ii) remove a requirement that local law enforcement process requests for purchases of more than one handgun in a 30-day period; (iii) expand the acceptable forms of identification that can be presented when an individual applies to purchase more than one handgun within 30 days; (iv) remove requirements for documenting a nondealer transfer; and (v) repeal the section allowing local law-enforcement agencies to process requests for purchases of more than one handgun in a 30-day period.

19VAC30-101-20. Notification of sale or transfer.

A. Any dealer in firearms who completes a sale or transfer of a handgun without having been advised by the Department of State Police if the dealer's records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, because the dealer was not so advised by the end of the dealer's ~~third~~ fifth business day, or was told by the State Police that a response would not be available by the end of the dealer's ~~third~~ fifth business day, shall notify the Department of State Police of the sale or transfer by telephone as soon as possible, but in no event later than the end of the dealer's next business day.

B. Any dealer in firearms who requests and receives criminal history record information in connection with an intended sale or transfer of a handgun that indicates the prospective purchaser or transferee is not prohibited from possessing or transporting a firearm by state or federal law shall notify the Department of State Police ~~by telephone~~ as soon as possible, but in no event later than the end of the dealer's next business day, whenever the dealer determines that the sale or transfer will not be completed.

19VAC30-101-30. Application for multiple handgun purchase.

Any person desiring to purchase in excess of one handgun within any 30-day period shall make application under oath on Form SP-207, Multiple Handgun Purchase Application. The applicant shall deliver such application in person to (i) State Police Administrative Headquarters, 7700 Midlothian Turnpike, Richmond, Virginia; or (ii) a division headquarters or area office of the Department of State Police; ~~or (iii) any local law enforcement agency certified by the Department of State Police as its agent to receive such applications.~~

19VAC30-101-40. Identification requirements.

At the time of delivery of the application form required by 19VAC30-101-30, the applicant shall present one form of identification. The form of identification shall consist of a photo-identification form issued by a governmental agency of the Commonwealth, a special identification card without a photograph issued pursuant to § 46.2-345.2 of the Code of Virginia, or a photo-identification for issued by the U.S. Department of Defense that was issued at least 30 days prior to presentation.

19VAC30-101-70. Enhanced background check.

A. Upon receipt of a completed application form, a division headquarters or area office of the Department of State Police ~~or a local law enforcement agency certified by the Department of State Police as its agent to receive such application~~ shall transmit the application, in accordance with policies and procedures prescribed by the Department of State Police, to State Police Administrative Headquarters. Upon receipt at administrative headquarters, the Department of State Police

will conduct an enhanced background check of the applicant and any person to whom any handgun to be purchased is to be transferred. This check will include a search of all available criminal history record information, including national, state, and local indices. The Department of State Police will make inquiry of the local law-enforcement agency having jurisdiction in the applicant's and any transferee's place of residence within the past five years as to any factors that would make the proposed purchase illegal under federal, state, or local law prior to approval of any transaction.

B. The enhanced background check shall be conducted without delay and shall be completed as soon as possible after receipt of the application at administrative headquarters. However, in case of electronic failure or other circumstances beyond the control of the State Police, the State Police shall complete the enhanced background check as soon as possible after the circumstances causing the delay have been corrected or overcome.

C. Before granting a multiple purchase certificate, the Department of State Police or its agents may make such inquiry of the applicant and others as the Department of State Police may deem necessary to determine that the application is bona fide and that the information contained in the application is true and accurate. The Department of State Police shall not issue a multiple purchase certificate until satisfied that the requirements of § 18.2-308.2:2 of the Code of Virginia and this chapter have been met.

19VAC30-101-90. Retention of certificate.

Upon delivery of the certificate issued pursuant to 19VAC30-101-80, a prospective transferor may proceed to transfer the number and type of handguns specified in the certificate provided the transferor has complied with the provisions of § 18.2-308.2:2 B of the Code of Virginia. If the transferor is a dealer in firearms as defined in § 54.1-4200 of the Code of Virginia, the certificate shall be surrendered to the transferor by the applicant prior to the consummation of such sale and shall be kept on file at the transferor's place of business for a period of not less than two years. ~~If the transferor is not a dealer in firearms, the transferor shall attest in writing on the reverse of the certificate, indicating the date the transfer was completed, and the transferee shall return the certificate to the office that issued the certificate. The returned certificate shall then be forwarded to State Police Administrative Headquarters.~~

19VAC30-101-110. Agents certified to receive applications and issue certificates. (Repealed.)

~~A. Any local law enforcement agency may request that it be certified as an agent for the Department of State Police to receive applications and issue certificates pursuant to this chapter. Any such request shall be in writing, directed to the Superintendent of State Police, and designate the particular individuals within the local agency who will perform these~~

Regulations

~~duties. Only such designated individuals shall accept applications or issue certificates. Prior to certification of a local law enforcement agency as an agent, each of its designated individuals must successfully complete a four-hour training course provided by the Department of State Police. Upon receipt of a request from a local law enforcement agency and the successful completion of the prescribed training course by its designated individuals, the Superintendent of State Police shall certify such agency as an agent for the Department of State Police to receive applications and issue certificates pursuant to these regulations.~~

~~B. Any agent certified as provided in subsection A of this section shall have the authority to receive applications and issue certificates pursuant to this chapter in accordance with policies and procedures prescribed by the Department of State Police.~~

VA.R. Doc. No. R24-7722; Filed November 29, 2023, 2:08 p.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 201 North Ninth Street, 4th Floor, Richmond, VA 23219.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Titles of Documents: [Adult Protective Services Manual, Chapters 1 through 4 and 7.](#)

[Adult Services Approved Providers, Chapter 5.](#)

[Assisted Living Facility Private Pay Assessment Manual.](#)

[Assisted Living Facility Public Pay Assessment Manual.](#)

[User's Manual- Uniform Assessment Instrument.](#)

[Work Incentives Specialist Advocate Manual.](#)

Public Comment Deadline: January 31, 2024.

Effective Date: February 1, 2024.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department of Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Pharmacy Manual, Appendix D.](#)

[Pharmacy Manual, Appendix E.](#)

[Virginia Medicaid Preferred Drug List: Common Core Formulary Changes, 90 Day Supply List Changes, and Drug Utilization Review Board Approved Drug Service Authorizations.](#)

Public Comment Deadline: January 31, 2024.

Effective Date: February 1, 2024.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA

23219, telephone (804) 371-0552, or email meredith.lee@dmas.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

Title of Document: [Requirements for Being Added to the Department of Motor Vehicles Driver Rehabilitation Specialists Listing.](#)

Public Comment Deadline: January 31, 2024.

Effective Date: February 1, 2024.

Agency Contact: Nicholas Megibow, Senior Policy Analyst, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-6701, or email nicholas.megibow@dmv.virginia.gov.

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies had previously identified these documents as certified guidance documents, pursuant to § 2.2-4002.1 of the Code of Virginia. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to view the deleted document and comment. This information is also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Renal Dialysis Clinic Manual, Chapters 2, 4, 5, and 6.](#)

[Independent Lab Manual, Appendix C and Chapters 2, 4, 5, and 6.](#)

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, or email meredith.lee@dmas.virginia.gov.

STATE BOARD OF EDUCATION

Revisions to the English and Language Arts Standards of Learning

The Virginia Board of Education will hold public hearings on the proposed revised English and Language Arts Standards of Learning. The Standards of Learning identify the essential content, processes, and skills for grade levels and subject courses.

The most current information about the revision process and public hearing dates and locations are available on the [Revisions to the 2017 English and Language Arts Standards of Learning webpage](#).

For additional information about the proposed revised English and Language Arts Standards of Learning, contact Jill Noguera by email at jill.nogueras@doe.virginia.gov.

Contact Information: Jim Chapman, Director of Board Relations, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Glenwood MHC LLC

An enforcement action has been proposed for Glenwood MHC LLC for violations of State Water Control Law and regulations and applicable permit at the Glenwood Mobile Home Community LLC sewage treatment plant located in Fredericksburg, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from January 1, 2024, to January 31, 2024.

Contact Information: Holly Shupe, Regional Enforcement Specialist Senior, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia 22193, telephone (571) 866-6923, or email holly.shupe@deq.virginia.gov.

Availability of the 2022 Fish Tissue Monitoring Data

Purpose of Notice: The Virginia Department of Environmental Quality (DEQ) announces the release of the 2022 fish tissue and sediment contaminant monitoring data.

Background: The Virginia Department of Environmental Quality conducts routine studies of fish tissue and bottom sediments in state waters to assess the human health risks for individuals who may consume fish, to identify impaired aquatic ecosystems, and to plan and track the progress of cleanup efforts. Results are made available to the public each year on the agency's website.

In 2022, DEQ collected fish tissue samples primarily from sites in the watersheds of the Potomac River, Albemarle Sound, including Great Dismal Swamp and Currituck Sound tributaries, and Big Sandy River, although samples were collected from all of Virginia's major river basins. In addition to routine statewide monitoring, DEQ also conducted a special fish tissue monitoring study in the Dan River and Roanoke River to evaluate the effects of coal ash in these river systems. These data are also included in the release. Samples were analyzed for polychlorinated biphenyls (PCBs) and a suite of 17 metals, including mercury. DEQ also collected bottom sediment samples from the Potomac River basin (32 samples), Albemarle Sound basin (four samples), and James River basin (one sample), which were analyzed for PCBs and whose results are included.

2022 monitoring results are available on the agency's website at <https://www.deq.virginia.gov/our-programs/water/water-quality/monitoring/fish-tissue-monitoring>.

Additional Information: The Virginia Department of Health (VDH) uses the data generated by DEQ's fish tissue monitoring program to determine the need for fish consumption advisories. More information on VDH fish consumption advisories is available at <https://www.vdh.virginia.gov/environmental-health/public-health-toxicology/fish-consumption-advisory/>.

Contacts for more information: Questions on DEQ's fish tissue monitoring program can be directed to Rick Browder at richard.browder@deq.virginia.gov, Gabriel Darkwah at gabriel.darkwah@deq.virginia.gov, or Andrew Kirk at andrew.kirk@deq.virginia.gov. Additional information is also available on the DEQ Water Quality Monitoring website at <https://www.deq.virginia.gov/water/water-quality/monitoring>.

Contact Information: Rick Browder, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 212-9734, or email richard.browder@deq.virginia.gov.

Request for Citizen Nomination of State Surface Waters for Inclusion in the Virginia Department of Environmental Quality Annual Water Quality Monitoring Plan

In accordance with § 62.1-44.19:5 F of the Code of Virginia, any person may request that a specific body of water be included in the Department of Environmental Quality (DEQ) annual water quality monitoring plan. Such requests shall include (i) a geographical description of the water body recommended for monitoring, (ii) the reason the monitoring is requested, and (iii) any water quality data that the petitioner may have collected or compiled. Each request received by April 30, 2024, shall be reviewed when DEQ develops the annual water quality monitoring plan for the following calendar year. DEQ will respond in writing on DEQ's approval or denial of each nomination by August 31, 2024.

All nominations with the minimum of information as outlined above will be accepted for review.

Please note that private ponds, privately owned lakes, and any other body of water with restricted public access are not eligible for this nomination process. Data collected in mixing zones or at the discharge pipe from permitted discharges won't be considered for ambient water quality assessment purposes.

Nominations can be submitted by email or postal mail to the contact at the end of this notice, or nominations may be hand delivered to the receptionist's desk at DEQ's central office at 1111 East Main Street, Richmond, Virginia.

Request to Include a Water Segment in DEQ's Annual Monitoring Plan:

Name:

Date:

Mailing Address:

Street

City

State

Zip Code

Email Address:

Home Telephone:

Business Telephone:

(1) Name of the water body or water bodies proposed for monitoring:

(2) Please provide a description of the upstream and downstream boundaries of the water bodies that show specifically where monitoring is proposed. Please describe the monitoring site locations as thoroughly as possible. A site map (photocopy or screenshot of an online map) is preferred. Latitude and longitude coordinates and descriptions of identifiable landmarks such as road crossings are also very helpful.

(3) Monitoring objective. Please give the reason for requesting the monitoring and, if possible, list the types of measurements or sampling that you are requesting.

(4) Attach any water quality data that you have collected or compiled. Include the name of the organization/entity that generated the data.

Contact Information: Meighan Wisswell, Department of Environmental Quality, P.O. Box 1105, 1111 East Main Street, Suite 1400, Richmond, VA 23218, telephone (571) 866-6494, or email citizenwater@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Intent to Amend Virginia State Plan for Medical Assistance Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) - Noninstitutional Provider Reimbursement Changes

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from Meredith Lee, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via email at meredith.lee@dmas.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Meredith Lee and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall public comment forum at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80)

In accordance with Item 304.TTTT of Chapter 1 of the 2023 Acts of Assembly, Special Session I, the state plan is being revised to increase the reimbursement rates for early intervention services, excluding case management, by 12.5% for all children younger than three years of age enrolled in early intervention in Virginia Medicaid.

The expected increase in annual aggregate fee-for-service expenditures is \$8,995 in state general funds and \$9,445 in federal funds in federal fiscal year 2024.

In accordance with Item 304.VVVV.1 of Chapter 1 of the 2023 Acts of Assembly, Special Session I, the state plan is being revised to increase rates by 10% for the following Medicaid-funded community-based services: intensive in-home, mental health skill building, psychosocial rehabilitation, therapeutic day treatment, outpatient psychotherapy, and peer recovery support services - mental health.

The expected increase in annual aggregate fee-for-service expenditures is \$131,548 in state general funds, \$9,605 in special funds, and \$224,573 in federal funds in federal fiscal year 2024.

In accordance with Item 304.VVVV.2 of Chapter 1 of the 2023 Acts of Assembly, Special Session I, the state plan is being revised to increase rates by 10% for the following Medicaid-

General Notices

funded community-based services: comprehensive crisis services, including 23-hour crisis stabilization, community stabilization, crisis intervention, mobile crisis response, and residential crisis stabilization; assertive community treatment; mental health - intensive outpatient; mental health - partial hospitalization; family functional therapy; and multisystemic therapy.

The expected increase in annual aggregate fee-for-service expenditures is \$43,903 in state general funds, \$8,434 in special funds, and \$122,004 in federal funds in federal fiscal year 2024.

In accordance with Item 304.WWWW of Chapter 1 of the 2023 Acts of Assembly, Special Session I, the state plan is being revised to increase the rates for mental health partial hospitalization from a per diem rate of \$250.62 to \$500.00 and shall increase the rate for mental health intensive outpatient programs from a per diem of \$159.20 to \$250.00.

The expected increase in annual aggregate fee-for-service expenditures is \$4,118 in state general funds, \$844 in special funds, and \$11,922 in federal funds in federal fiscal year 2024.

In accordance with Item 304.YYYY of Chapter 1 of the 2023 Acts of Assembly, Special Session I, the state plan is being revised to increase the rates for agency and consumer-directed personal care services by 5.0%. A corresponding rate increase of 5.0% will be provided for personal care services and for companion and respite services provided under home and community-based waivers, however, the increase is not included in this state plan amendment but via waiver documentation.

The expected increase in annual aggregate fee-for-service expenditures is \$1,187 in state general funds and \$1,246 in federal funds in federal fiscal year 2024.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Intent to Amend Virginia State Plan for Medical Assistance Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) - Dental Updates

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from Meredith Lee, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, or via email at meredith.lee@dmas.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or

inquiries may be submitted, in writing, within 30 days of this notice publication to Emily McClellan and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Virginia Town Hall at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80)

In accordance with Item 304.XXXX of Chapter 1 of the 2023 Acts of Assembly, the state plan is being revised to (i) extend the age limitation for children receiving fluoride varnish from non-dental providers from "through age three" to "through age five"; (ii) remove the current limitation on the number of times a dentist can bill the behavioral management code when treating adults with disabilities; (iii) provide payment for crowns for patients who received root canal therapy prior to becoming a Medicaid beneficiary; and (iv) provide reimbursement for pretreatment evaluations performed by dentists treating patients requiring deep sedation or general anesthesia to mirror the Centers for Medicare and Medicaid Services guidelines.

The expected increase in annual aggregate fee-for-service expenditures is \$345,492 in state general funds and \$461,486 in federal funds in federal fiscal year 2024.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North Ninth Street, 4th Floor, Richmond, VA 23219; Telephone: (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the Virginia Register of Regulations since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the Virginia Register of Regulations. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.