VIRGINIA REGISTER OF REGULATIONS

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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

An agency wishing to adopt, amend, or repeal regulations must first publish 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 proposal 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 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 (JCAR) 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 changes made to the proposed regulation 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*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, 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 exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. 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. "Jay" Leftwich,** Vice Chair; **Ryan T. McDougle; Nicole Cheuk; Rita Davis; Leslie L. Lilley; Thomas M. Moncure, Jr.; Christopher R. Nolen; Charles S. Sharp; Samuel T. Towell; Malfourd W. Trumbo; Mark J. Vucci.**

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PUBLICATION SCHEDULE AND DEADLINES

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

August 2019 through August 2020

Volume: Issue	Material Submitted By Noon*	Will Be Published On
35:25	July 17, 2019	August 5, 2019
35:26	July 31, 2019	August 19, 2019
36:1	August 14, 2019	September 2, 2019
36:2	August 28, 2019	September 16, 2019
36:3	September 11, 2019	September 30, 2019
36:4	September 25, 2019	October 14, 2019
36:5	October 9, 2019	October 28, 2019
36:6	October 23, 2019	November 11, 2019
36:7	November 6, 2019	November 25, 2019
36:8	November 18, 2019 **(Monday)**	December 9, 2019
36:9	December 4, 2019	December 23, 2019
36:10	December 18, 2019	January 6, 2020
36:11	January 1, 2020	January 20, 2020
36:12	January 15, 2020	February 3, 2020
36:13	January 29, 2020	February 17, 2020
36:14	February 12. 2020	March 2, 2020
36:15	February 26, 2020	March 16, 2020
36:16	March 11, 2020	March 30, 2020
36:17	March 25, 2020	April 13, 2020
36:18	April 8, 2020	April 27, 2020
36:19	April 22. 2020	May 11, 2020
36:20	May 6, 2020	May 25, 2020
36:21	May 20, 2020	June 8, 2020
36:22	June 3, 2020	June 22, 2020
36:23	June 17, 2020	July 6, 2020
36:24	July 1, 2020	July 20, 2020
36:25	July 15, 2020	August 3, 2020

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Medical Assistance Services intends to consider amending **12VAC30-10, State Plan under Title XIX of the Social Security Act Medical Assistance Program - General Provisions; 12VAC30-20, Administration of Medical Assistance Services; 12VAC30-30, Groups Covered and Agencies Responsible for Eligibility Determination;** and **12VAC30-40, Eligibility Conditions and Requirements**. The purpose of the proposed action is to incorporate changes made to the State Plan for Medical Assistance to implement Medicaid expansion, including (i) establishing the adult eligibility group as a group eligible for Medicaid coverage, (ii) updating the Health Insurance Premium Payment (HIPP) program and HIPP for Kids program, (iii) making expansion-related changes to the federal medical assistance percentage, (iv) updating the federal medical assistance percentage for expenditures associated with new enrollees, and (v) allowing individuals who receive Supplemental Nutrition Assistance Program benefits to be moved into Medicaid coverage on an expedited basis.

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

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Public Comment Deadline: September 4, 2019.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, 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.

VA.R. Doc. No. R19-5692; Filed July 3, 2019, 1:36 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Medical Assistance Services intends to consider amending **12VAC30-50, Amount, Duration, and Scope of Medical and Remedial Care Services**. The purpose of the proposed action is to add the alternative benefit plan available to individuals to the State Plan for Medical Assistance to implement Medicaid expansion.

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

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Public Comment Deadline: September 4, 2019.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, 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.

VA.R. Doc. No. R19-5693; Filed July 3, 2019, 1:38 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Fast-Track Regulation

Title of Regulation: **8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-5, 8VAC20-131-51, 8VAC20-131-80, 8VAC20-131-110, 8VAC20-131-140, 8VAC20-131-150).**

Statutory Authority: §§ 22.1-16 and 22.1-253.13 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: September 4, 2019.

Effective Date: September 19, 2019.

Agency Contact: Zachary Robbins, Director of Policy, Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2092, or email zachary.robbins@doe.virginia.gov.

Basis: Section 22.1-253.13:3 of the Code of Virginia gives the board authority to establish in regulation standards for accrediting public schools.

Purpose: These regulatory changes are proposed in order to amend the Board of Education's Regulations Establishing Standards for Accrediting Public Schools in Virginia so that the regulations comport with legislation passed by the 2018 General Assembly. These regulatory changes benefit the public welfare by acknowledging and rewarding the accomplishments of high school students; encouraging high school students to pursue higher education opportunities leading to a degree, certificate, or credential; encouraging recreation and exercise for students in elementary school; and ensuring that high school students earn verified credit in history and social studies through a standardized test, thereby demonstrating knowledge in the subject matter.

Rationale for Using Fast-Track Rulemaking Process: These amendments to the Standards of Accreditation are mandated by legislation enacted by the General Assembly during the 2018 Session and 2018 Special Session I. This regulatory action is noncontroversial because its only purpose is to comport the regulations to align with legislation.

Substance: This regulatory action is necessary to amend the Standards of Accreditation to comport with legislation that was enacted during the 2018 Session of the General Assembly and 2018 Special Session I of the General Assembly, including:

• Chapter 482 of the 2018 Acts of Assembly, which requires the Board of Education to establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics;

• Chapter 512 of the 2018 Acts of Assembly, which permits students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at the institution;

• Chapters 784 and 785 of the 2018 Acts of Assembly, which permit unstructured recreational time to be included in the calculation of required instructional time for elementary schools, provided that the unstructured recreational time does not exceed 15% of total instructional time. The bill also reduces the minimum required instructional time in elementary schools for English, mathematics, science, and history and social science; and

• Item 130 D of the 2018 Appropriation Act, which prohibits verified credit in history and social science from being awarded using a performance-based assessment and provides that the only way to earn a verified credit in history and social science is through successfully completing (i) a Standards of Learning assessment, (ii) a substitute test that incorporates or exceeds the course content, or (iii) a locally awarded verified credit.

Issues: These revisions are required by changes in the Code of Virginia adopted by the Virginia General Assembly. The advantage of the regulatory changes is that they help prepare public school students to become successful after graduation and will therefore strengthen the Virginia workforce and Virginia economy. There are no disadvantages to the public, the agency, or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapters 482, 512, 784, and 785 of the 2018 Acts of Assembly, and Item 130.D of the 2018 Appropriation Act, the Board of Education (Board) proposes several amendments to the Regulations Establishing Standards for Accrediting Public Schools in Virginia. The Board also proposes to remove the criteria for the Board of Education's Science, Technology, Engineering, and Mathematics (STEM) Seal (currently called Board of Education's Seal of Advanced Mathematics and Technology) from the regulation.

Result of Analysis. The benefits likely exceed the costs for most of the proposed changes. For one proposed change, whether the benefits exceed the costs depend on the policy views of the observer.

Estimated Economic Impact.

Chapter 482: Prior to the enactment of Chapter 482,[1] Code of Virginia (COV) § 22.1-253.13:4.E.2 stated that "The Board shall establish criteria for awarding a diploma seal for advanced mathematics and technology for the Board of Education-approved diplomas." The legislation amended that to "The Board shall establish criteria for awarding a diploma seal for advanced science, technology, engineering, and mathematics and technology (STEM) for the Board of Education-approved diplomas." Consequently, the Board proposes to change in the regulation the name of the seal currently called "Board of Education's Seal of Advanced Mathematics and Technology" to "Board of Education's Science, Technology, Engineering, and Mathematics (STEM) Seal."

The current regulation lists criteria that needs to be met to earn the Board of Education's Seal of Advanced Mathematics and Technology. In addition to changing the name, the Board proposes to remove the criteria from the regulation. According to the Department of Education, the criteria will be listed on their website. By taking the criteria out of the regulation, the Board could make future changes to the criteria without going through the time-consuming process statutorily required to amend regulatory language. Sensible changes could be made more quickly. From a different perspective, however, there would be less time and opportunity for public participation than is required by the Administrative Process Act.[2]

Chapter 512: Chapter 512[3] states that in establishing graduation requirements, the Board shall "Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution." The Board proposes to explicitly state this in the regulation. This proposed amendment would have no impact beyond the benefit of improving clarity for individuals who read the regulation, but not the COV.

Chapters 784 and 785: The identical Chapters 784[4] and 785[5] put forth that unstructured recreational time is to be included in any calculation of total instructional time. Specifically,

> § 1. Local school boards shall provide (i) a minimum of 680 hours of instructional time to students in elementary school, except for students in half-day kindergarten, in the four academic disciplines of English, mathematics, science, and history and social science and (ii) a minimum of 375 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science.
>
> § 2. Local school boards may include and the Board of Education shall accept, for elementary school, unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time or teaching hours, provided that such unstructured recreational time does not exceed 15 percent of total instructional time or teaching hours.

The Board proposes to amend the regulation to reflect these requirements. These proposed amendments would be beneficial in that they improve the clarity of requirements in effect.

Appropriation Act: Item 130.D of the 2018 Appropriation Act[6] provides that the only way to earn a verified credit in history and social science is through successfully completing: (i) a Standards of Learning assessment; (ii) a substitute test that incorporates or exceeds the course content; or (iii) a locally awarded verified credit. It specifically prohibits verified credit in history and social studies from being awarded using a performance-based assessment. The Board proposes to amend the regulation to reflect this change. These proposed amendments would also be beneficial in that they improve the clarity of requirements in effect.

Businesses and Entities Affected. The proposed amendments affect the 132 local school boards and school divisions, the schools within those divisions, and staff and students.

Localities Particularly Affected. The proposed amendments would not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments would not likely affect employment.

Effects on the Use and Value of Private Property. The proposed amendments would not likely affect the use and value of private property.

Real Estate Development Costs. The proposed amendments would not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

Costs and Other Effects. The proposed amendments would not likely affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments would not likely adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments would not likely adversely affect businesses.

Localities. The proposed amendments would not likely adversely affect localities.

Other Entities. The proposed amendments would not likely adversely affect other entities.

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[1]See http://leg1.state.va.us/cgi-bin/legp504.exe?181+ful+CHAP0482+hil

[2]See https://law.lis.virginia.gov/vacodepopularnames/administrative-process-act/

[3]See http://leg1.state.va.us/cgi-bin/legp504.exe?181+ful+CHAP0512+hil

[4] See http://leg1.state.va.us/cgi-bin/legp504.exe?181+ful+CHAP0784

[5]See http://leg1.state.va.us/cgi-bin/legp504.exe?181+ful+CHAP0785

[6]See https://budget.lis.virginia.gov/item/2018/2/HB5002/Chapter/1/130/

Agency's Response to Economic Impact Analysis: The agency concurs with the economic impact analysis (EIA) completed by the Department of Planning and Budget. While the EIA indicates that establishing the STEM diploma seal criteria through adopted guidance rather than through regulation would limit the opportunity for public comment, any guidance adopted by the board is posted as an agenda item and can be commented on at the beginning of the board meeting. In addition, the new requirements to post guidance on Virginia Regulatory Town Hall provide an opportunity for public comment.

Summary:

The amendments conform regulations to the following legislation adopted during the 2018 Session of the General Assembly:

Chapter 482, which requires the Board of Education to establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics;

Chapter 512, which permits students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at the institution;

Chapters 784 and 785, which (i) permit unstructured recreational time to be included in the calculation of required instructional time for elementary schools, provided that the unstructured recreational time does not exceed 15% of total instructional time and (ii) reduce the minimum required instructional time in elementary schools for English, mathematics, science, and history and social science; and

Item 130 D of the 2018 Appropriation Act, which prohibits verified credit in history and social science from being awarded using a performance-based assessment and provides that the only way to earn a verified credit in history and social science is through successfully completing (i) a Standards of Learning assessment, (ii) a substitute test that incorporates or exceeds the course content, or (iii) a locally awarded verified credit.

Part I
Definitions and Purpose

8VAC20-131-5. Definitions.

The following words and terms apply only to this chapter and do not supersede those definitions used for federal reporting purposes or for the calculation of costs related to the Standards of Quality (§ 22.1-253.13:1 et seq. of the Code of Virginia). When used in this chapter, these words shall have the following meanings, unless the context clearly indicates otherwise:

"Accreditation" means a process used by the Virginia Department of Education to evaluate the performance of public schools in accordance with this chapter.

"Additional test" means a test, including substitute tests approved by the board, that students may use in lieu of a Standards of Learning test to obtain verified credit.

"Authentic performance assessment" means a test that complies with guidelines adopted by the board that requires students to perform a task or create a product that is typically scored using a rubric. An authentic performance assessment may be used to confer verified credit in accordance with the provisions of 8VAC20-131-110 B 4 ~~and B 5~~.

"Board of Education" or "board" means the board responsible for the general supervision of the public schools system in Virginia as prescribed in Section 4 of Article VIII of the Constitution of Virginia and § 22.1-8 of the Code of Virginia.

"Class period" means a segment of time during the instructional day that is allocated to lessons, courses, testing and assessments, or other instructional activities and excludes homeroom.

"Credit accommodations" means adjustments to meet the standard and verified credit requirements for earning a Standard Diploma for students with disabilities.

"Department" means the Virginia Department of Education.

"Elementary school" means a public school with any grades kindergarten through 5.

"English learner" or "EL" means, as prescribed in the Elementary and Secondary Education Act (P.L. 89-10, as amended), an individual:

1. Who is aged three through 21 years;

2. Who is enrolled or preparing to enroll in an elementary school or secondary school;

3. a. Who was not born in the United States or whose native language is a language other than English;

b. (1) Who is a Native American or Alaska native, or a native resident of the outlying areas; and

(2) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

c. Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

4. Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the:

a. Ability to meet the challenging state academic standards;

b. Ability to successfully achieve in classrooms where the language of instruction is English; or

c. Opportunity to participate fully in society.

"Enrollment" means the act of complying with state and local requirements relative to the registration or admission of a child for attendance in a school within a local school division. This term also means registration for courses within the student's home school or within related schools or programs.

"First time" means the student has not been enrolled in the school at any time during the current school year (for purposes of 8VAC20-131-60 with reference to students who transfer in during the school year).

"Four core academic areas" means English, mathematics, science, and history and social science for purposes of testing for the Standards of Learning.

"Graduate" means a student who has earned a board recognized diploma, which includes the Advanced Studies Diploma, the Standard Diploma, and the Applied Studies Diploma.

"Growth" or "student growth" means student progress toward achievement as demonstrated through a valid and reliable measure.

"Homebound instruction" means academic instruction provided to students who are confined at home or in a health care facility for periods of time that prevent normal school attendance, based upon certification of need by a licensed physician or a licensed clinical psychologist.

"Instructional day" means all the time in a standard school day, from the beginning of the first scheduled class period to the end of the last scheduled class period, including passing time for class changes and excluding breaks for meals ~~and recess~~.

"Instructional hours" means the hours in a standard school day, from the beginning of the first scheduled class period to the end of the last scheduled class period, including passing time for class changes and excluding breaks for meals ~~and recess~~.

"Locally awarded verified credit" means a verified unit of credit awarded by a local school board in accordance with 8VAC20-131-110 B 3.

"Middle school" means a public school with any grades 6 through 8.

"Planning period" means a segment of time in middle and secondary schools during the instructional day that is unencumbered of any teaching or supervisory duties, is not less than 45 minutes or the equivalent of a class period, whichever is greater, and that includes passing time for class changes.

"Planning time" means a segment of time for elementary teachers that provides at least an average of 30 minutes per day for planning during the student's school week as provided in § 22.1-291.1 of the Code of Virginia.

"Recess" means a segment of ~~free time~~ unstructured recreational time exclusive of time provided for meals during the standard school day ~~in which students are given a break from structured classroom instruction~~.

"Reporting group" means a subgroup of students who are identified as having common characteristics such as students identified as belonging to major racial and ethnic groups, economically disadvantaged students, students with disabilities, and English learners.

"School" means a publicly funded institution where students are enrolled for all or a majority of the instructional day and:

1. Those students are reported in fall membership at the institution; and

2. At a minimum, the institution meets the preaccreditation eligibility requirements of this chapter as adopted by the board.

"Secondary school" means a public school with any grades 9 through 12.

"Standard school day" means a calendar day, including passing time for class changes and excluding breaks for meals, that averages ~~at least~~ a minimum of five and one-half instructional hours for students in grades 1 through 12~~, excluding breaks for meals and recess,~~ and a minimum of three instructional hours for students in kindergarten. Recess may be included in the calculation of required instructional hours for elementary school, provided that recess does not exceed 15% of the required instructional hours.

"Standard school year" means a school year of at least 180 teaching days or a total of at least 990 instructional hours per year, as specified in § 22.1-98 of the Code of Virginia.

"Standard unit of credit" or "standard credit" means credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110 and in accordance with board guidelines.

"Standards of Learning tests" or "SOL tests" means those criterion referenced assessments approved by the board for use in the Virginia Assessment Program that measure attainment of knowledge and skills required by the Standards of Learning.

"Standards of Quality" means the Standards of Quality prescribed in Chapter 13.2 (§ 22.1-253.13:1 et seq.) of Title 22.1 of the Code of Virginia.

"Student" means a person of school age as defined by § 22.1-1 of the Code of Virginia, a child with disabilities as defined in § 22.1-213 of the Code of Virginia, and a person for whom English is a second language in accordance with § 22.1-5 of the Code of Virginia.

"Verified unit of credit" or "verified credit" means credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test as defined in this section as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; or (iv) ~~meets the criteria for the receipt of a verified credit for history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment as provided in 8VAC20-131-110 B 4; or (v)~~ meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B ~~5~~ 4.

"Virginia Assessment Program" means a system used to evaluate student achievement that includes SOL tests and additional tests that may be approved from time to time by the board.

8VAC20-131-51. Requirements for graduation (effective with the students who enter the ninth grade in the 2018–2019 school year).

A. The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.

Both the Standard Diploma and the Advanced Studies Diploma shall provide multiple paths toward college, career, and citizenship readiness for students to follow in the later years of high school. Each such pathway shall provide meaningful and rigorous opportunities tied to instruction to achieve workplace and citizenship skills through experiences such as internships, externships, credentialing, and blended learning, which may be offered for credit toward high school graduation.

In accordance with the Profile of a Virginia Graduate approved by the board, the instructional program leading to a Standard Diploma or Advanced Studies Diploma shall ensure that students (i) attain the knowledge, skills, competencies, and experiences necessary to be successful in the evolving global economy whether immediately entering the world of work or pursuing a postsecondary education and (ii) acquire and be able to demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship.

When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for graduation provided the courses are equivalent in content and academic rigor as those courses offered at the secondary level. To earn a verified unit of credit for these courses, students must meet the requirements of 8VAC20-131-110.

The requirements in this section shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the board. All additional requirements prescribed by local school boards that have been approved by the board remain in effect until such time as the local school board submits a request to the board to amend or discontinue them.

B. Requirements for a Standard Diploma.

1. Beginning with the ninth-grade class of 2018–2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with a Standard Diploma.

A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110 and in accordance with board guidelines.

A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test, as defined in 8VAC20-131-5 as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; or (iv) ~~meets the criteria for the receipt of a verified credit for history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 4; or (v)~~ meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on authentic performance assessments as provided in 8VAC20-131-110 B ~~5~~ 4.

No more than one locally awarded verified credit may be used to satisfy these requirements, except as provided in subdivision 3 of this subsection for credit accommodations for students with disabilities.

Discipline Area	Standard Units of Credit Required	Verified Credits Required
English (reading and writing)	4	2
Mathematics	3	1
Laboratory Science	3	1
History and Social Science	3	1
Health and Physical Education	2	
World Language, Fine Arts, or Career and Technical Education	2	
Economics and Personal Finance	1	
Electives	4	
Total	22	5

Discipline Area	Specifications
Mathematics	Courses completed to satisfy this requirement shall include at least two different course selections from among: algebra I, geometry, algebra functions, and data analysis, algebra II, or other mathematics courses approved by the board to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.
Laboratory Science	Courses completed to satisfy this requirement shall include course selection from at least two different science disciplines: earth sciences, biology, chemistry, or physics, or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit. A laboratory science verified credit may be awarded to students who complete a career and technical education program sequence and (i) pass two examinations or occupational competency assessments in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, trade, or professional association; (ii) acquire two professional licenses in a career and technical education field from the Commonwealth of Virginia; or (iii) pass one examination or competency assessment from clause (i) and acquire one license from clause (ii). The examination or occupational competency assessment must be approved by the board as an additional test to verify student achievement.

History and Social Science	Courses completed to satisfy this requirement shall include Virginia and U.S. history, Virginia and U.S. government, and one course in either world history or geography or both. The board shall approve courses to satisfy this requirement.
~~Laboratory Science, and History and Social Science~~	~~Students who complete a career and technical education program sequence and pass an examination or occupational competency assessment in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, or trade or professional association, or acquires a professional license in a career and technical education field from the Commonwealth of Virginia may substitute the certification, competency credential, or license for either a laboratory science or history and social science verified credit when the certification, license, or credential confers more than one verified credit. The examination or occupational competency assessment must be approved by the board as an additional test to verify student achievement.~~
World Language, Fine Arts, or Career and Technical Education	Per the Standards of Quality, credits earned for this requirement shall include one credit in fine or performing arts or career and technical education. Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical course credit.
Electives	Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.

Additional Requirements for Graduation	
Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential	In accordance with the Standards of Quality, students shall either (i) complete an Advanced Placement, honors, or International Baccalaureate course~~,~~ or (ii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.
Virtual Course	Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.
Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED)	Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an ~~IEP~~ individualized education plan (IEP) or 504 Plan that documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-420 B.
Demonstration of the five Cs	Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.

3. The board shall establish through guidelines credit accommodations to the standard and verified credit requirements for a Standard Diploma. Such credit accommodations for students with disabilities may include:

a. Approval of alternative courses to meet the standard credit requirements;

b. Modifications to the requirements for local school divisions to award locally awarded verified credits;

c. Approval of additional tests to earn a verified credit;

d. Adjusted cut scores required to earn verified credit; and

e. Allowance of work-based learning experiences.

The student's IEP or 504 Plan shall specify any credit accommodations applicable for the student.

Students completing the requirements for the Standard Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

C. Requirements for an Advanced Studies Diploma.

1. Beginning with the ninth-grade class of 2018–2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with an Advanced Studies Diploma.

A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110 and in accordance with board guidelines.

A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test, as defined in 8VAC20-131-5, as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; or (iv) ~~meets the criteria for the receipt of a verified credit for history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 4; or (v)~~ meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B ~~5~~ 4.

No more than one locally awarded verified credit may be used to satisfy these requirements.

Discipline Area	Standard Units of Credit Required	Verified Credits Required
English (reading and writing)	4	2
Mathematics	4	1
Laboratory Science	4	1
History and Social Science	4	1
World Language	3	
Health and Physical Education	2	
Fine Arts or Career and Technical Education	1	
Economics and Personal Finance	1	
Electives	3	
Total	26	5

Discipline Area	Specifications
Mathematics	Courses completed to satisfy this requirement shall include at least three different course selections from among: algebra I, geometry, algebra II, or other mathematics courses above the level of algebra II. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.

Laboratory Science	Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve additional courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.
History and Social Science	Courses completed to satisfy this requirement shall include Virginia and U.S. history, Virginia and U.S. government, and two courses in either world history or geography or both. The board shall approve additional courses to satisfy this requirement.
World Language	Courses completed to satisfy this requirement shall include three years of one language or two years of two languages.
Fine Arts or Career and Technical Education	Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical credit.
Electives	Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.

Additional Requirements for Graduation	
Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential	In accordance with the Standards of Quality, students shall either (i) complete an Advanced Placement, honors, or International Baccalaureate course or (ii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the advanced studies diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.
Virtual Course	Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.
Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED).	Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an IEP or 504 Plan that documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-420 B.
Demonstration of the five Cs	Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.

D. Requirements for an Applied Studies Diploma. In accordance with the requirements of the Standards of Quality, a student with disabilities who completes the requirements of the student's IEP and does not meet the requirements for other diplomas shall be awarded Applied Studies Diplomas in accordance with state and federal laws and regulations regarding special education.

Students who pursue an Applied Studies Diploma shall be allowed to pursue a Standard Diploma or an Advanced Studies Diploma at any time during high school. Such

students shall not be excluded from courses or tests required to earn these diplomas.

E. Requirements for Certificates of Program Completion. In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board but do not qualify for a Standard Diploma, an Advanced Studies Diploma, or an Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

F. In accordance with the provisions of the compulsory attendance law and 8VAC20-30, Regulations Governing Adult High School Programs, students who do not qualify for diplomas may earn a high school equivalency credential. The requirements for the General Achievement Adult High School Diploma are provided in 8VAC20-30-20.

G. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and that the value of such a diploma is not affected in any way by the accreditation status of the student's school.

H. Awards for exemplary student performance. Students who demonstrate academic excellence and outstanding achievement may be eligible for one or more of the following awards:

1. The Governor's Seal shall be awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better and successfully complete college-level coursework that shall earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses.

2. The Board of Education Seal shall be awarded to students who complete the requirements for a Standard Diploma or an Advanced Studies Diploma with an average grade of "A."

3. The Board of Education's Career and Technical Education Seal shall be awarded to students who earn a Standard Diploma or an Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses or (i) pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade, or professional association or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The board shall approve all professional licenses and examinations used to satisfy these requirements.

4. The Board of Education's Science, Technology, Engineering, and Mathematics (STEM) Seal ~~of Advanced Mathematics and Technology~~ shall be awarded to students who ~~earn either a Standard Diploma or an Advanced Studies Diploma and (i) satisfy all of the mathematics requirements for the Advanced Studies Diploma with a "B" average or better and (ii) pass an examination in a career and technical education field that confers certification from a recognized industry, or trade or professional association; acquire a professional license in a career and technical education field from the Commonwealth of Virginia; or pass an examination approved by the board that confers college-level credit in a technology or computer science area. The board shall approve all professional licenses and examinations used to satisfy these requirements~~ meet criteria established by the board.

5. The Board of Education's Seal for Excellence in Civics Education shall be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) complete Virginia and United States history and Virginia and United States government courses with a grade of "B" or higher; (ii) have good attendance and no disciplinary infractions as determined by local school board policies; and (iii) complete 50 hours of voluntary participation in community service or extracurricular activities. Activities that satisfy the requirements of clause (iii) of this subdivision include (a) volunteering for a charitable or religious organization that provides services to the poor, sick, or less fortunate; (b) participating in Boy Scouts, Girl Scouts, or similar youth organizations; (c) participating in JROTC; (d) participating in political campaigns or government internships, or Boys State, Girls State, or Model General Assembly; or (e) participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation shall be deemed to have met this community service requirement.

6. The Board of Education's Seal of Biliteracy shall be awarded to students who demonstrate proficiency in English and at least one other language and meet additional criteria established by the board.

7. The Board of Education's Seal for Excellence in Science and the Environment shall be awarded to students who earn either a Standard Diploma or Advanced Studies Diploma and (i) complete at least three different first-level board-approved laboratory science courses and at least one rigorous advanced-level or postsecondary-level laboratory science course, each with a grade of "B" or higher; (ii) complete laboratory or field-science research and present that research in a formal, juried setting; and (iii) complete

at least 50 hours of voluntary participation in community service or extracurricular activities that involve the application of science such as environmental monitoring, protection, management, or restoration.

8. Students may receive other seals or awards for exceptional academic, career and technical, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

I. Students completing graduation requirements in a summer school program shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

J. Students who complete Advanced Placement courses, college-level courses, or courses required for an International Baccalaureate Diploma shall be deemed to have completed the course requirements for graduation under these standards provided they have earned the total number of standard units of credit and verified units of credit in each discipline area in accordance with the requirements for the Standard Diploma and the Advanced Studies Diploma, as specified in subsections B and C of this section.

K. Students shall be counseled annually regarding the opportunities for using additional tests for earning verified credits, as provided in accordance with the provisions of 8VAC20-131-110, and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.

8VAC20-131-80. Instructional program in elementary schools.

A. The elementary school shall provide each student a program of instruction that corresponds to the Standards of Learning for English, mathematics, science, and history and social science. In addition, each school shall provide instruction in art, music, and physical education and health and shall require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the board. In addition, each school shall provide instruction in career exploration in accordance with the provisions of 8VAC20-131-140.

B. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program. Schools shall maintain an early skills and knowledge achievement record in reading and mathematics for each student in grades kindergarten through 3 to monitor student progress and to promote successful achievement on the third grade SOL tests. This record shall be included with the student's records if the student transfers to a new school.

In accordance with the Standards of Quality, local school boards shall implement early identification, diagnosis, and assistance for students with reading and mathematics problems and provide instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

C. To provide students with sufficient opportunity to learn, ~~a minimum of 75% of the annual instructional time of 990 hours shall be given to instruction in the disciplines of English, mathematics, science, and history and social science~~ local school divisions shall provide a minimum of 680 hours of the required 990 hours of instructional time to students in elementary school in the four academic disciplines of English, mathematics, science, and history and social science. Local school divisions shall provide a minimum of 375 hours of the required 540 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science.

Students who are not successfully progressing in early reading proficiency or who are unable to read with comprehension the materials used for instruction shall receive additional instructional time in reading, which may include summer school.

In accordance with the Standards of Quality, local school divisions shall provide reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on the SOL reading test or any reading diagnostic test that meets criteria established by the Department of Education. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade 3 to grade 4.

D. Elementary schools are encouraged to provide instruction in world languages.

8VAC20-131-110. Standard and verified units of credit.

A. A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. A school division may waive the requirement that a student receive 140 clock hours of instruction to earn a standard credit, effective with students enrolled in the 2015-2016 school year, as prescribed in the Standards of Quality and board guidelines. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit on a basis other than the 140 clock hours of instruction required for a standard unit of credit defined in this subsection, the local school division shall provide the board with satisfactory proof, based on board guidelines, that the students for whom the 140-clock-hour requirement is waived have learned the content and skills included in the relevant Standards of Learning. In addition, the local school division

shall develop a written policy approved by the superintendent and school board that ensures:

1. That the content of the course for which credit is awarded is comparable to 140 clock hours of instruction; and

2. That upon completion, the aims and objectives of the course have been met.

B. A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and completes one of the following:

1. Achieves a passing score on a corresponding end-of-course SOL test. In accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic Standards of Learning course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the board.

Upon waiver of the 140-clock-hour requirement according to board guidelines, qualified students who have received a standard unit of credit shall be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.

2. Achieves a passing score on an additional test, as defined in 8VAC20-131-5, as a part of the Virginia Assessment Program.

3. Meets the criteria for the receipt of a locally awarded verified credit when the student has not passed a corresponding SOL test.

a. Students who enter the ninth grade for the first time prior to the 2018-2019 school year and do not pass SOL tests in science or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. Credit accommodations for students with disabilities may be used to confer locally awarded verified credits as provided in 8VAC20-131-50 B 3.

b. Students who enter the ninth grade for the first time in the 2018-2019 school year or thereafter and do not pass SOL tests in English, mathematics, laboratory science, or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. No more than one locally awarded verified credit may be used to satisfy graduation requirements, except as provided in 8VAC20-131-51 B 3 for students with disabilities seeking a standard diploma.

~~4. Meets the criteria for the receipt of a verified credit in history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment that complies with guidelines adopted by the board. Such students shall not also be required to take the corresponding SOL test in history and social science. 5.~~ Meets the criteria for the receipt of a verified credit in English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, that complies with guidelines adopted by the board. Such students shall not also be required to take the corresponding SOL test in English (writing).

C. The board may from time to time approve additional tests for the purpose of awarding verified credit. Such additional tests, which enable students to earn verified units of credit, must, at a minimum, meet the following criteria:

1. The test must be standardized and graded independently of the school or school division in which the test is given;

2. The test must be knowledge based;

3. The test must be administered on a statewide, multistate, or international basis, or administered as part of another state's accountability assessment program; and

4. To be counted in a specific academic area, the test must measure content that incorporates or exceeds the Standards of Learning content in the course for which verified credit is given.

The board shall set the score that must be achieved to earn a verified unit of credit on the additional test options.

D. With such funds as are appropriated by the General Assembly, the board shall provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

8VAC20-131-140. College and career readiness; career exposure, exploration, and planning; and opportunities for postsecondary credit.

A. Each middle and secondary school shall provide for the early identification and enrollment of students in a program with a range of educational and academic experiences related to college and career readiness in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to prepare for a career or postsecondary education.

B. Beginning with the 2013–2014 academic year and through the 2017–2018 academic year:

1. All schools shall begin development of a personal Academic and Career Plan (ACP) for each seventh-grade student with completion by the fall of the student's eighth-grade year. Students who transfer from other than a Virginia public school into the eighth grade shall have the plan developed as soon as practicable following enrollment. Beginning with the 2014–2015 academic year,

students who transfer into a Virginia public school after their eighth-grade year shall have an ACP developed upon enrollment. The components of the ACP shall include the student's program of study for high school graduation and a postsecondary career pathway based on the student's academic and career interests. The ACP shall be developed in accordance with guidelines established by the board and signed by the student, student's parent or guardian, and school official ~~or officials~~ designated by the principal. The ACP shall be included in the student's record and shall be reviewed and updated, if necessary, before the student enters the ninth and eleventh grades. The school shall have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the ACP. Any personal ACPs prescribed by local school boards for students in grades 7 through 12 and in effect as of June 30, 2009, are approved to continue without further action by the board.

2. Beginning in the middle school years, students shall be counseled on opportunities for beginning postsecondary education and opportunities for obtaining industry certifications, occupational competency credentials, or professional licenses in a career and technical education field prior to high school graduation. Such opportunities shall include access to at least three Advanced Placement (AP), International Baccalaureate (IB), or Cambridge courses or three college-level courses for degree credit pursuant to 8VAC20-131-100. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit (dual enrollment), under the following conditions:

a. Written approval of the high school principal prior to participation in dual enrollment must be obtained;

b. The college must accept the student for admission to the course ~~or courses~~; and

c. The course ~~or courses~~ must be given by the college for degree credits (no remedial courses will be accepted).

Schools that comply with this standard shall not be penalized in receiving state appropriations.

C. Beginning with the 2018–2019 academic year:

1. Each elementary, middle, and secondary school shall provide for the identification by all students of personal interests and abilities to support planning for postsecondary opportunities and career preparation. Such support shall include provision of information concerning exploration of career cluster areas in elementary schools~~,~~ and course information and planning for college preparation programs, opportunities for educational and academic experiences in and outside the classroom, including internships and work-based learning, and the multiple pathways to college and career readiness in middle and high school.

2. Beginning in the elementary school years, students are to explore the different occupations associated with career clusters and select ~~an area or~~ areas of interest. Students shall begin the development of an academic and career plan portfolio (ACPP) in elementary grades to include information about interests, values such as dependability and responsibility, and skills supporting decisions about their future interests and goals. The ACPP is a repository for planning notes, class projects, interest inventory results, awards and recognitions, and other information related to academic and career plans and preparation. The ACPP is student led and updated and revised as the student continues to plan for the student's future throughout school years. The information contained in the ACPP shall serve as the foundation for creating the ACP in grade 7.

In middle school, students are to complete a locally selected career interest inventory and select a career pathway. To support development of the ACP, students shall complete a career investigations course selected from the career and technical education state-approved list, or a school division-provided alternative means of delivering the career investigations course content, provided that the alternative is equivalent in content and academic rigor. The course, or its alternative, shall address, at a minimum, planning for academic courses, work-based learning opportunities, completion of industry certifications, possible independent projects, and postsecondary education. The course, or its alternative, shall include demonstration of personal, professional, and technical workplace readiness skills.

All schools shall continue development of a personal ACP with each seventh-grade student with completion by the end of the fall semester of the student's eighth-grade year. Students who transfer from other than a Virginia public school into the eighth grade shall have the ACP developed as soon as practicable following enrollment. Students who transfer into a Virginia public school after their eighth-grade year shall have an ACP developed upon enrollment. The components of the ACP shall include the student's program of study for high school graduation and a postsecondary career pathway based on the student's academic and career interests. In high school, a career-related learning experience shall be chosen by the student and documented in the ACP.

3. The ACP shall be developed in accordance with guidelines established by the board and signed by the student, student's parent or guardian, and school official or officials designated by the principal. The ACP shall be

included in the student's record and shall be reviewed and updated annually.

4. Beginning in the middle school years, students shall be counseled on opportunities for beginning postsecondary education and opportunities for obtaining industry certifications, occupational competency credentials, or professional licenses in a career and technical education field prior to high school graduation. Such opportunities shall include access to at least three Advanced Placement (AP), International Baccalaureate (IB), or Cambridge courses or three college-level courses for degree credit pursuant to 8VAC20-131-100. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible.

5. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit (dual enrollment), under the following conditions:

a. Written approval of the high school principal prior to participation in dual enrollment must be obtained;

b. The college must accept the student for admission to the course ~~or courses~~; ~~and~~

c. The course ~~or courses~~ must be given by the college for degree credits (no remedial courses will be accepted); and

d. Students participating in courses offered by an institution of higher education shall be permitted to exceed a full course load in order to participate in courses that lead to a degree, certificate, or credential at such institution.

8VAC20-131-150. Standard school year and school day.

A. The standard school year shall be 180 instructional days or 990 instructional hours. The standard school day, including passing time for class changes and excluding breaks for meals, shall average a minimum of five and one-half instructional hours for students in grades 1 through 12 ~~shall average at least 5 1/2 instructional hours, including passing time for class changes and excluding breaks for meals and recess,~~ and a minimum of three hours for kindergarten. Recess may be included in the calculation of required instructional hours for elementary school, provided that recess does not exceed 15% of the required instructional hours.

B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5-1/2 hours), unless a waiver is granted in accordance with policies defined by the local school board.

VA.R. Doc. No. R19-5771; Filed June 7, 2019, 1:46 p.m.

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TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC25-31. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (amending 9VAC25-31-250).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, 124, 403, and 503.

Effective Date: September 4, 2019.

Agency Contact: Andrew Hammond, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4101, or email andrew.hammond@deq.virginia.gov.

Summary:

Pursuant to Item 366 K of Chapter 854 of the 2019 Acts of Assembly, the amendment modifies the maximum time for a Virginia Pollutant Discharge Elimination System permitted discharger to attain compliance with water quality-based limitations for consistency with the time for compliance established by the U.S. Environmental Protection Agency in 40 CFR 122.47(a)(1).

9VAC25-31-250. Schedules of compliance.

A. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the law, the CWA and regulations.

1. Any schedules of compliance under this section shall require compliance as soon as possible, but not later than the applicable statutory deadline under the CWA.

2. The first VPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommencing dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued

or revised less than three years before recommencement of discharge.

3. Schedules of compliance may be established in permits for existing sources which are reissued or modified to contain new or more restrictive water quality-based effluent limitations. The schedule may allow a reasonable period of time~~, not to exceed the term of the permit,~~ for the discharger to attain compliance with the water quality-based limitations.

4. Except as provided in subdivision B 1 b of this section, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

b. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

5. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if subdivision 4 b of this subsection is applicable.

B. A VPDES permit applicant or permittee may cease conducting regulated activities (by terminating of direct discharge for VPDES sources) rather than continuing to operate and meet permit requirements as follows:

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

a. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

b. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit;

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline;

3. If the permittee is undecided whether to cease conducting regulated activities, the board may issue or modify a permit to contain two schedules as follows:

a. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

b. One schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline;

c. The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline; and

d. Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under subdivision 3 a of this subsection it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities; and

4. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the board, such as a resolution of the board of directors of a corporation.

VA.R. Doc. No. R19-5939; Filed July 3, 2019, 12:27 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC25-210. Virginia Water Protection Permit Program Regulation (amending 9VAC25-210-10, 9VAC25-210-116).**

Statutory Authority: §§ 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Effective Date: September 4, 2010.

Agency Contact: Debra Harris, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4019, or email debra.harris@deq.virginia.gov.

Summary:

To conform the regulation to Chapter 545 of the 2019 Acts of Assembly, the amendments incorporate changes to § 62.1-44.15:21 B of the Code of Virginia to (i) clarify the State Water Control Board's evaluation of compensatory mitigation proposals, (ii) modify the term "ecologically preferable" but not that term's definition, and (iii) add a definition for the term "temporal loss."

Part I
VWP Permit Program Definitions, Exclusions, Prohibitions and Requirements

9VAC25-210-10. Definitions.

A. Definitions specific to surface water withdrawals are in 9VAC25-210-300.

B. Unless a different meaning is required by the context, the following terms as used in this chapter shall have the following meanings:

"Adjacent" means bordering, contiguous, or neighboring wetlands separated from other surface water by man-made dikes or barriers, natural river berms, sand dunes, and the like.

"Administratively withdrawn" means a decision by the board that permanently discontinues the review or processing of a VWP permit application or request to modify a VWP permit.

"Applicant" means a person applying for a VWP individual permit or for coverage under a VWP general permit.

"Aquatic environment" means surface waters and the habitat they provide, including both plant and animal communities.

"Avoidance" means not taking or modifying a proposed action or parts of an action so that there is no adverse impact to the aquatic environment.

"Beneficial use" means both instream and offstream uses. Instream beneficial uses include the protection of fish and wildlife resources and habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, and cultural and aesthetic values is an instream beneficial use of Virginia's waters. Offstream beneficial uses include domestic uses (including public water supply), agricultural uses, electric power generation, commercial uses, and industrial uses.

"Best management practices" or "BMPs" means a schedule of activities, prohibition of practices, maintenance procedures, and other management practices that prevent or reduce the pollution of surface waters.

"Board" means the State Water Control Board.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning, or paving certain areas.

"Compensation" or "compensatory mitigation" means (i) the restoration (reestablishment or rehabilitation), establishment (creation), enhancement, or in certain circumstances preservation of aquatic resources or (ii) in certain circumstances an out-of-kind measure having a water quality, habitat, or other desirable benefit for the purposes of offsetting unavoidable adverse impacts to aquatic resources that remain after all appropriate and practicable avoidance and minimization has been achieved.

"Construction site" means any site where land-disturbing activity is conducted or physically located for the purpose of erecting buildings, roads, or other discrete structures, including on-site or off-site areas used for dependent, support facilities, such as quarries, mines, or temporary stormwater management or erosion control structures.

"Conversion" means those impacts to surface waters that permanently change an existing wetland or aquatic resource type to a different wetland or aquatic resource type.

"Coverage" means authorization to conduct a project in accordance with a VWP general permit.

"Cowardin classification" or "Cowardin classification method," unless otherwise specified in this chapter, means the waters classification system in Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, Lewis M. II, et al., U.S. Fish and Wildlife Service, December 1979, Reprinted 1992).

"Creation" means the establishment of a wetland or other aquatic resource where one did not formerly exist.

"Cross-sectional drawing" means a scaled graph or plot that represents the plane made by cutting across an object at right angles to its length. Objects may include a surface water body or a portion of it, a man-made channel, an above-ground structure, a below-ground structure, a geographical feature, or the ground surface itself.

"Department" or "DEQ" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality (DEQ) or an authorized representative.

"Discharge" means, when used without qualification, a discharge of a pollutant, or any addition of any pollutant or combination of pollutants, to state waters.

"Draft VWP permit" means a document indicating the board's tentative decision relative to a VWP permit action.

"Draining" means human-induced activities such as ditching, excavation, installation of tile drains, hydrologic

modification by surface water runoff diversion, pumping water from wells, or similar activities such that the activities have the effect of artificially dewatering the wetland or altering its hydroperiod.

"Dredged material" means material that is excavated or dredged from surface waters.

"Dredging" means a form of excavation in which material is removed or relocated from beneath surface waters.

"Ecologically and environmentally preferable" means capable of providing a higher likelihood than alternative proposals of replacing existing wetland acreage and functions, stream functions, water quality, and fish and wildlife resources.

"Emergent wetland" means a class of wetlands dominated by erect, rooted, herbaceous plants growing in water or on a substrate, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"Enhancement" means activities conducted in existing wetlands or other portions of the aquatic environment that increase one or more aquatic functions.

"Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil, or rock.

"Fill" means replacing portions of surface water with upland, or raising the bottom elevation of a surface water for any purpose, by placement of any pollutant or material including rock, sand, earth, and man-made materials and debris.

"Fill material" means any pollutant that replaces portions of surface water with dry land or that raises the bottom elevation of a surface water for any purpose.

"Forested wetland" means a class of wetlands dominated by woody vegetation that is approximately 20 feet (six meters) tall or taller and three inches (7.6 centimeters) or larger in diameter at breast height (DBH). These areas typically possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

"Impacts" means results caused by those activities specified in § 62.1-44.15:20 A of the Code of Virginia.

"Impairment" means the damage, loss, or degradation of the acreage or functions of wetlands or the functions of state waters.

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a phased development project that depend upon other phases of the project do not have independent utility. Portions of a phased development project that would be constructed even if the other phases are not built can be considered as separate single complete projects with independent public and economic utility.

"In-lieu fee program" means a program operated by a nonprofit organization or governmental agency that receives moneys from persons impacting wetlands or streams pursuant to an authorized, permitted activity and that expends the moneys received to provide consolidated compensatory mitigation for permitted wetland or stream impacts.

"Isolated wetlands of minimal ecological value" means those wetlands that (i) do not have a surface water connection to other state waters, (ii) are less than one-tenth of an acre (0.10 acre or 4,356 square feet) in size, (iii) are not located in a Federal Emergency Management Agency designated 100-year floodplain, (iv) are not identified by the Virginia Natural Heritage Program as a rare or state significant natural community, (v) are not forested, and (vi) do not contain listed federal or state threatened or endangered species.

"Joint Permit Application" or "JPA" means an application form that is used to apply for permits from the Norfolk District Army Corps of Engineers, the Virginia Marine Resources Commission, the Virginia Department of Environmental Quality, and local wetland boards for work in waters of the United States and in surface waters of Virginia.

"Law" means the State Water Control Law of Virginia.

"Legal name" means the full legal name of an individual, business, or other organization. For an individual, legal name means the first name, middle initial, last name, and suffix. For an entity authorized to do business in Virginia, the legal name means the exact name set forth in the entity's articles of incorporation, organization or trust, or formation agreement, as applicable.

"Minimization" means lessening impacts by reducing the degree or magnitude of the proposed action and its implementation.

"Mitigation" means sequentially avoiding and minimizing impacts to the maximum extent practicable, and then compensating for remaining unavoidable impacts of a proposed action.

"Mitigation bank" means a site providing off-site, consolidated compensatory mitigation that is developed and approved in accordance with all applicable federal and state laws or regulations for the establishment, use, and operation

of mitigation banks and is operating under a signed banking agreement.

"Mitigation banking" means compensating for unavoidable wetland or stream losses in advance of development actions through the sale or purchase of credits from a mitigation bank.

"Nationwide permit" means a general permit issued by the U.S. Army Corps of Engineers (USACE) under 33 CFR Part 330 and, except where suspended by individual USACE Corps Districts, applicable nationwide.

"Nontidal wetland" means those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to § 404 of the federal Clean Water Act in 40 CFR 230.3(t). Wetlands generally include swamps, marshes, bogs, and similar areas.

"Normal agricultural activities" means those activities defined as an agricultural operation in § 3.2-300 of the Code of Virginia and any activity that is conducted as part of or in furtherance of such agricultural operation but shall not include any activity for which a permit would have been required as of January 1, 1997, under 33 USC § 1344 or any regulations promulgated pursuant thereto.

"Normal residential gardening and lawn and landscape maintenance" means ongoing noncommercial residential activities conducted by or on behalf of an individual occupant, including mowing; planting; fertilizing; mulching; tilling; vegetation removal by hand or by hand tools; and placement of decorative stone, fencing, and play equipment. Other appurtenant noncommercial activities, provided that they do not result in the conversion of a wetland to upland or to a different wetland type, may also be included.

"Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 of the Code of Virginia, and any activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include any activity for which a permit would have been required as of January 1, 1997, under 33 USC § 1344 or any regulations promulgated pursuant thereto.

"Notice of project completion" means a statement submitted by the permittee or authorized agent that the authorized activities and any required compensatory mitigation have been completed.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

"Out-of-kind compensatory mitigation" or "out-of-kind mitigation" means a measure that does not replace the same type of wetland or surface water as was impacted but does replace lost wetland or surface water functions or provide a water quality, habitat, or other desirable benefit.

"Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall. Generally, the water table is located above the stream bed for most of the year and groundwater is the primary source for stream flow. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

"Permanent flooding or impounding" means a permanent increase in the duration or depth of standing water on a land surface, such as from a dam. Permanent increases in duration or depth of standing water that result from extended-detention basins and enhanced extended-detention basins, when designed, constructed, and maintained to function in accordance with Virginia Department of Conservation and Recreation (DCR) standards for such facilities (Virginia Stormwater Management Handbook, First Edition, 1999, Volume 1, Chapter 3), or when designed in accordance with local standards that, at a minimum, meet the DCR standards, are not considered to be permanent flooding and impounding.

"Permanent impacts" means those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters or of the acreage or functions of a wetland.

"Permittee" means the person who holds a VWP individual or general permit.

"Permittee-responsible compensatory mitigation" or "permittee-responsible mitigation" means compensation or compensatory mitigation, as defined in this section, that is undertaken by the permittee, or an authorized agent or contractor, for which the permittee retains full responsibility.

"Person" means individual, corporation, partnership, association, governmental body, municipal corporation, or any other legal entity.

"Phased development" means more than one project proposed for a single piece of property or an assemblage of contiguous properties under consideration for development by the same person, or by related persons, that will begin and be completed at different times. Depending on the relationship

between the projects, a phased development may be considered a single and complete project or each project may be considered a single and complete project if each project has independent utility, as defined in this section.

"Plan view drawing" means a scaled graph or plot that represents the view of an object as projected onto orthogonal planes. Objects may include structures, contours, or boundaries.

"Pollutant" means any substance, radioactive material, or heat that causes or contributes to or may cause or contribute to pollution.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (i) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution" for the terms and purposes of this chapter.

"Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

"Preservation" means the protection of resources in perpetuity through the implementation of appropriate legal and physical mechanisms.

"Profile drawing" means a scaled graph or plot that represents the side view of an object. Objects may include a surface water body or a portion of it, a man-made channel, an above-ground structure, a below-ground structure, a geographical feature, or the ground surface itself.

"Public hearing" means a fact finding proceeding held to afford interested persons an opportunity to submit factual data, views, and comments to the board pursuant to § 62.1-44.15:02 of the Code of Virginia.

"Regional permit" means a general permit issued by the U.S. Army Corps of Engineers under 33 CFR Part 330 and applicable within a specified geographic area.

"Restoration" means the reestablishment of a wetland or other aquatic resource in an area where it previously existed. Wetland restoration means the reestablishment of wetland hydrology and vegetation in an area where a wetland previously existed. Stream restoration means the process of converting an unstable, altered, or degraded stream corridor, including adjacent areas and floodplains, to its natural conditions.

"Riprap" means a layer of nonerodible material such as stone or chunks of concrete.

"Section 401" means § 401 of the Clean Water Act, or 33 USC § 1341, as amended in 1987.

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation, excluding woody vines, approximately three to 20 feet (one to six meters) tall. The species include true shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Significant alteration or degradation of existing wetland acreage or function" means human-induced activities that cause either a diminution of the areal extent of the existing wetland or cause a change in wetland community type resulting in the loss or more than minimal degradation of its existing ecological functions.

"Single and complete project" means the total project proposed or accomplished by a person, which also has independent utility as defined in this section. For linear projects, the single and complete project (e.g., a single and complete crossing) will apply to each crossing of a separate surface water (e.g., a single water body) and to multiple crossings of the same water body at separate and distinct locations. Phases of a project that have independent utility may each be considered single and complete.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stream bed" or "stream channel" means the substrate of a stream, as measured between the ordinary high water mark along each side of a stream. The substrate may consist of organic matter, bedrock, or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water mark along each side of a stream, are not considered part of the stream bed.

"Surface water" means all state waters that are not groundwater as groundwater is defined in § 62.1-255 of the Code of Virginia.

"Suspend" or "suspension" means a decision by the board that stops the review or processing of a permit application or request to modify a permit or permit coverage until such time that information requested by the board is provided, reviewed, and deemed adequate.

"Temporal loss" means the time lag between the loss of aquatic resource functions caused by the impacts and the

replacement of aquatic resource functions by compensatory mitigation.

"Temporary impacts" means impacts to wetlands or other surface waters that do not cause a permanent alteration of the physical, chemical, or biological properties of surface waters or the permanent alteration or degradation of existing wetland acreage or functions. Temporary impacts include activities in which the impact area is restored to its preconstruction elevations and contours with topsoil from the impact area where practicable, such that previous wetland acreage and functions or surface water functions are restored.

"Tidal wetland" means vegetated and nonvegetated wetlands as defined in § 28.2-1300 of the Code of Virginia.

"Toxic pollutant" means any agent or material including those listed under § 307(a) of the Water Pollution Prevention and Control Act (33 USC § 1317(a)), which after discharge will, on the basis of available information, cause toxicity. Toxicity means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health, or other adverse environmental effects.

"Undesirable plant species" means any species that invades, naturally colonizes, or otherwise dominates a compensatory mitigation site or mitigation bank, such that it causes or contributes to the failure of the vegetative success criteria for a particular compensatory mitigation site, mitigation bank, or in-lieu fee program project, or it otherwise prohibits the restoration of the same vegetation cover type that was originally present.

"VWP general permit" means the general permit text, terms, requirements, and conditions set forth in a regulation that constitutes a VWP permit authorizing a specified category of activities.

"VWP permit" means an individual or general permit issued by the board under § 62.1-44.15:20 of the Code of Virginia that authorizes activities otherwise unlawful under § 62.1-44.5 of the Code of Virginia or otherwise serves as the Commonwealth of Virginia's § 401 certification. For any applicant to the Federal Energy Regulatory Commission for a certificate of public convenience and necessity pursuant to § 7c of the federal Natural Gas Act (15 USC § 717f(c)) to construct any natural gas transmission pipeline greater than 36 inches inside diameter, issuance of an individual VWP permit pursuant to this chapter and a certification issued pursuant to Article 2.6 (§ 62.1-44.15:80 et seq.) of the State Water Control Law shall together constitute the certification required under § 401 of the federal Clean Water Act.

"Water quality standards" means water quality standards adopted by the board and approved by the administrator of the U.S. Environmental Protection Agency under § 303 of the Clean Water Act as defined in ~~9VAC25-260-10~~ 9VAC25-260-5.

"Watershed approach" means an analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed and that ensures authorized impacts and mitigation have been considered on a watershed scale.

"Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

9VAC25-210-116. Compensation.

A. No net loss. Compensatory mitigation for project impacts shall be sufficient to achieve no net loss of existing wetland acreage and no net loss of functions in all surface waters. Compensatory mitigation ratios appropriate for the type of aquatic resource impacted and the type of compensation provided shall be applied to permitted impacts to help meet this requirement. Credit may be given for preservation of upland buffers already protected under other ordinances to the extent that additional protection and water quality and fish and wildlife resource benefits are provided.

B. Practicable and ecologically and environmentally preferable compensation alternatives.

1. An analysis shall be required to justify that permittee-responsible compensatory mitigation is ecologically and environmentally preferable to the purchase of mitigation bank credits or in-lieu fee program credits, if such credits are available in sufficient quantity for the project at the projected time of need. The analysis shall address the ability of the permittee-responsible compensatory mitigation ~~site or~~ sites to replace lost wetland acreage and functions or lost stream functions and water quality benefits. The analysis comparing the impacted and compensation ~~site or~~ sites may use a method that assesses water quality or habitat metrics, such as that required by 9VAC25-210-80 C, or a method that assesses such criteria as water quality benefits, distance from impacts, hydrologic source and regime, watershed, vegetation type, soils, constructability, timing of compensation versus impact, property acquisition, and cost.

2. The applicant shall demonstrate that permittee-responsible compensatory mitigation can be protected in perpetuity through a protective mechanism approved by the Department of Environmental Quality, such as, but not limited to, a conservation easement held by a third party in accordance with the Virginia Conservation Easement Act (§ 10.1-1009 et seq. of the Code of Virginia) or the Virginia Open-Space Act (§ 10.1-1700 et seq. of the Code of Virginia), a duly recorded declaration of restrictive covenants, or other protective instrument.

C. Compensatory mitigation proposals shall be evaluated as follows:

1. The purchase of mitigation bank credits and in-lieu fee program credits when available shall in most cases be deemed the ecologically and environmentally preferable form of compensation for project impacts. However, permittee-responsible compensatory mitigation may be considered when the applicant satisfactorily demonstrates that permittee-responsible compensatory mitigation is ecologically and environmentally preferable in accordance with subdivision B 1 of this section.

2. Compensatory mitigation for unavoidable wetland impacts may be met through the following options, which are preferred in the following sequence: mitigation banking, in-lieu fee program, and permittee-responsible compensatory mitigation. However, ~~the appropriate compensatory mitigation option for project impacts shall be evaluated on a case-by-case basis, in terms of replacement of wetland acreage and functions and the greatest likelihood of success~~ the board shall evaluate the appropriate compensatory mitigation option on a case-by-case basis with consideration for which option is practicable and ecologically and environmentally preferable, including, in terms of replacement of acreage and functions, which option offers the greatest likelihood of success and avoidance of temporal loss of acreage and function. This evaluation shall be consistent with the U.S. Army Corps of Engineers Compensatory Mitigation for Losses of Aquatic Resources as provided in 33 CFR Part 332. When considering options for providing the required compensatory mitigation, DEQ shall consider the type and location options in the following order:

a. Mitigation bank credits;

b. In-lieu fee program credits;

c. Permittee-responsible mitigation under a watershed approach;

d. Permittee-responsible mitigation through on-site and in-kind mitigation;

e. Permittee-responsible mitigation through off-site or out-of-kind mitigation;

f. Restoration, enhancement, or preservation of upland buffers adjacent to wetlands when utilized in conjunction with subdivision 2 a, 2 b, 2 c, 2 d, or 2 e of this subsection and when consistent with subsection A of this section; and

g. Preservation of wetlands when utilized in conjunction with subdivision 2 a, 2 b, 2 c, 2 d, or 2 e of this subsection and when consistent with subsection A of this section.

3. Compensatory mitigation for unavoidable stream impacts may be met through the following options, which are preferred in the following sequence: mitigation banking, in-lieu fee program, and permittee-responsible mitigation. However, ~~the appropriate compensatory mitigation option for project impacts shall be evaluated on a case-by-case basis, in terms of replacement of stream functions and water quality benefits and the greatest likelihood of success~~ the board shall evaluate the appropriate compensatory mitigation option on a case-by-case basis with consideration for which option is practicable and ecologically and environmentally preferable, including, in terms of replacement of acreage and functions, which option offers the greatest likelihood of success and avoidance of temporal loss of acreage and function. This evaluation shall be consistent with the U.S. Army Corps of Engineers Compensatory Mitigation for Losses of Aquatic Resources as provided in 33 CFR Part 332. One factor in determining the required compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board. When considering options for providing the required compensatory mitigation, DEQ shall consider the type and location options in the following order:

a. Mitigation bank stream credits;

b. In-lieu fee program credits;

c. Permittee-responsible mitigation under a watershed approach;

d. Permittee-responsible mitigation through on-site and in-kind mitigation;

e. Permittee-responsible mitigation through off-site or out-of-kind mitigation;

f. Restoration, enhancement, or preservation of upland buffers adjacent to streams when utilized in conjunction with subdivision 3 a, 3 b, 3 c, 3 d, or 3 e of this subsection and when consistent with subsection A of this section; and

g. Preservation of stream channels and adjacent riparian buffers when utilized in conjunction with subdivision 3 a, 3 b, 3 c, 3 d, or 3 e of this subsection and when consistent with subsection A of this section.

4. Compensatory mitigation for open water impacts may be required to protect state waters and fish and wildlife resources from significant impairment, as appropriate. Compensation shall not be required for permanent or temporary impacts to open waters that are identified as palustrine by the Cowardin classification method, but compensation may be required when such open waters are located in areas of karst topography in Virginia and are formed by the natural solution of limestone.

D. In-lieu fee program approval.

1. The board may approve the use of a program by issuing a VWP permit for a specific project or by taking an enforcement action and following applicable public notice and comment requirements, or by granting approval of a program after publishing a notice of its intent in the Virginia Register of Regulations and accepting public comments on its approval for a minimum of 30 days.

2. Where a program is mandated by the Code of Virginia to be implemented and such program is approved by the U.S. Army Corps of Engineers, the program may be used as deemed appropriate for any VWP permit or enforcement action.

3. An approved program must meet the following criteria:

a. Demonstration of a no net loss policy in terms of wetland acreage and functions or stream functions and water quality benefits by adoption of operational goals or objectives for restoration, creation, enhancement, or preservation;

b. DEQ approval of each site for inclusion in the program;

c. A commitment to provide annual reports to the board detailing contributions received and acreage and type of wetlands or streams preserved, created or restored in each watershed with those contributions, as well as the compensatory mitigation credits contributed for each watershed of project impact;

d. A mechanism to establish fee amounts that will ensure each contribution will be adequate to compensate for the wetland acreage and functions or stream functions and water quality benefits lost in the impacted watershed; and

e. Such terms and conditions as the board deems necessary to ensure a no net loss of wetland acreage and functions or stream functions and water quality benefits from permitted projects providing compensatory mitigation.

4. Approval may be granted for up to 10 years and may be renewed by the board upon a demonstration that the program has met the criteria in subdivision 3 of this subsection.

E. Use of mitigation banks. The use of mitigation banks for compensating project impacts shall be deemed appropriate if the following criteria are met:

1. The bank meets the criteria and conditions found in § 62.1-44.15:23 of the Code of Virginia;

2. The bank is ecologically and environmentally preferable to practicable on-site and off-site individual compensatory mitigation options;

3. The banking instrument, if approved after July 1, 1996, has been approved by a process that involved public review and comment in accordance with federal guidelines; and

4. The applicant provides verification to DEQ of purchase of the required amount of credits.

F. For permittee-responsible mitigation, the final compensatory mitigation plan shall include complete information on all components of the conceptual compensatory mitigation plan detailed in 9VAC25-210-80 B 1 m and:

1. For wetlands, the final compensation plan for review and approval by DEQ shall also include a summary of the type and acreage of existing wetland impacts anticipated during the construction of the compensation site and the proposed compensation for these impacts; a site access plan; a monitoring plan, including proposed success criteria, monitoring goals, and the location of photo-monitoring stations, monitoring wells, vegetation sampling points, and reference wetlands or streams if available; an abatement and control plan for undesirable plant species; an erosion and sedimentation control plan; a construction schedule; and the final protective mechanism for the compensation site or sites, including all surface waters and buffer areas within its boundaries. The approved protective mechanism shall be recorded in the chain of title to the property, or an equivalent instrument for government-owned lands, and proof of recordation shall be submitted to DEQ prior to commencing impacts in surface waters.

2. For streams, the final compensation plan for review and approval by DEQ shall also include a site access plan; an erosion and sedimentation control plan, if appropriate; an abatement and control plan for undesirable plant species; a monitoring plan, including a monitoring and reporting schedule, monitoring design, and methodologies for success; proposed success criteria; location of photo-monitoring stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams; a plan view drawing depicting the pattern and all compensation measures being employed; a profile drawing; cross-sectional drawing or drawings of the proposed compensation stream; and the final protective mechanism for the compensation site or sites, including all surface waters and buffer areas within its boundaries. The approved protective mechanism shall be recorded in the chain of title to the property, or an equivalent instrument for government-owned lands, and proof of recordation shall be submitted to DEQ prior to commencing impacts in surface waters.

VA.R. Doc. No. R19-6014; Filed July 3, 2019, 12:25 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC25-610. Groundwater Withdrawal Regulations (amending 9VAC25-610-360).**

Statutory Authority: §§ 62.1-44.15 and 62.1-256 of the Code of Virginia.

Effective Date: September 4, 2019.

Agency Contact: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

Summary:

The amendment corrects a citation to the Code of Virginia.

Part VIII
Miscellaneous

9VAC25-610-360. Delegation of authority.

The director, or his designee, may perform any act of the board provided under this chapter, except as limited by ~~§ 62.1-256.9~~ subdivision 9 of § 62.1-256 of the Code of Virginia.

VA.R. Doc. No. R19-5751; Filed July 3, 2019, 12:22 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 14 of the Code of Virginia, which exempts adoption, amendment, or repeal of wasteload allocations by the State Water Control Board pursuant to State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) if the board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting.

Title of Regulation: **9VAC25-720. Water Quality Management Planning Regulation (amending 9VAC25-720-50, 9VAC25-720-60, 9VAC25-720-70).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; 33 USC § 1313(e) of the Clean Water Act.

Effective Date: September 4, 2019.

Agency Contact: Mark Richards, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4392, FAX (804) 698-4032, or email mark.richards@deq.virginia.gov.

Summary:

The amendments to the state's Water Quality Management Planning Regulation (9VAC25-720) include (i) revising three total maximum daily load (TMDL) wasteload allocations in the Potomac-Shenandoah River Basin, (ii) adding 10 new TMDL wasteload allocations in the James River Basin, and (iii) adding 10 new TMDL wasteload allocations in the Rappahannock River Basin.

9VAC25-720-50. Potomac-Shenandoah River Basin.

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA[1]	Units
1.	Muddy Creek, Dry River, and tributaries to North River	Nitrate TMDL Development for Muddy Creek/Dry River, Virginia	Rockingham	B21R, B22R	Nitrate	49,389.00	LB/YR
2.	Blacks Run	~~TMDL Development for Blacks Run and Cooks Creek~~ Revision of the Benthic Total Maximum Daily	Rockingham, City of Harrisonburg	~~B25R~~ B26R	Sediment	~~32,844.00~~ 1,310,000	LB/YR

		Load (TMDL) Developed for the Blacks Run and Cooks Creek Watershed Located in the City of Harrisonburg and Rockingham County					
3.	Cooks Creek	~~TMDL Development for Blacks Run and Cooks Creek~~ Revision of the Benthic Total Maximum Daily Load (TMDL) Developed for the Blacks Run and Cooks Creek Watershed Located in the City of Harrisonburg and Rockingham County	Rockingham	B25R	Sediment	~~69,301.00~~ 1,543,000	LB/YR
4.	Cooks Creek	~~TMDL Development for Blacks Run and Cooks Creek~~ Revision of the Benthic Total Maximum Daily Load (TMDL) Developed for the Blacks Run and Cooks Creek Watershed Located in the City of Harrisonburg and Rockingham County	Rockingham	B25R	Phosphorus	~~0~~ 2,060	LB/YR
EDITOR'S NOTE: Rows numbered 5 through 218 in this TMDL table in subsection A of 9VAC25-720-50 are not amended; therefore, the text of those rows is not set out.							
Notes: [1]The total WLA can be increased prior to modification provided that DEQ tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria. [2]There were no point source dischargers in the modeled TMDL area.							

EDITOR'S NOTE: Subsections B and C of 9VAC25-720-50 are not amended; therefore, the text of those subsections is not set out.

9VAC25-720-60. James River Basin.

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA[1]	Units
EDITOR'S NOTE: Rows numbered 1 through 161 in this TMDL table in subsection A of 9VAC25-720-60 are not amended; therefore, the text of those rows is not set out.							
162.	Sinking Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I18R	E. coli	1.17E+9	counts/year
163.	Barbours Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Craig	I22R	E. coli	2.36E+9	counts/year
164.	Lapsley Run	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I24R	E. coli	2.45E+8	counts/year
165.	Little Patterson Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I22R	E. coli	5.38E+8	counts/year
166.	Upper Craig Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Craig	I19R	E. coli	3.93E+9	counts/year
167.	Middle Craig Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Craig	I22R	E. coli	1.54E+10	counts/year

168.	Lower Craig Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I22R	E. coli	2.07E+10	counts/year
169.	Catawba Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I25R	E. coli	3.00E+9	counts/year
170.	James River	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I18R	E. coli	4.19E+10	counts/year
171.	Catawba Creek	Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia	Botetourt	I25R	Sediment	29.44	tons/year

Notes:
[1]The total WLA can be increased prior to modification provided that ~~DEQ~~ the Department of Environmental Quality tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.

[2]GS means growing season.

EDITOR'S NOTE: Subsections B and C of 9VAC25-720-60 are not amended; therefore, the text of those subsections is not set out.

9VAC25-720-70. Rappahannock River Basin.

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA[1]	Units
EDITOR'S NOTE: Rows numbered 1 through 72 in this TMDL table in subsection A of 9VAC25-720-70 are not amended; therefore, the text of those rows is not set out.							
73.	Mill Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in	Caroline	E21R	E. coli	1.19E+12	cfu/year

		Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia					
74.	Jetts Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	King George	E21R	E. coli	6.41E+10	cfu/year
75.	Portobago Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Caroline	E21R	E. coli	1.06E+11	cfu/year
76.	Stillwater Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Essex	E22R	E. coli	3.50E+10	cfu/year

77.	Baylors Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Essex	E22R	E. coli	4.72E+10	cfu/year
78.	Elmwood Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Essex	E22R	E. coli	5.14E+10	cfu/year
79.	Peedee Creek, non-tidal	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Westmoreland	E22R	E. coli	2.62E+10	cfu/year
80.	Unnamed tributary of Peedee Creek	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Westmoreland	E22R	E. coli	1.30E+9	cfu/year

81.	Peedee Creek, tidal	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Westmoreland	E22E	Enterococci	2.07E+10	cfu/day
82.	Rappahannock River, tidal	Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia	Richmond County, Essex	E22E	Enterococci	3.11E+12	cfu/day

Notes:
[1]The total WLA can be increased prior to modification provided that ~~DEQ~~ the Department of Environmental Quality tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.

[2]There were no point source dischargers in the modeled TMDL area.

EDITOR'S NOTE: Subsections B and C of 9VAC25-720-70 are not amended; therefore, the text of those subsections is not set out.

VA.R. Doc. No. R19-6035; Filed July 3, 2019, 12:17 p.m.

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TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Proposed Regulation

Title of Regulation: **11VAC10-47. Historical Horse Racing (adding 11VAC10-47-10 through 11VAC10-47-200).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 4, 2019.

Agency Contact: Kimberly Mackey, Regulatory Coordinator, Virginia Racing Commission, 5707 Huntsman Road, Suite 201-B, Richmond, VA 23250, telephone (804) 966-7406, or email kimberly.mackey@vrc.virginia.gov.

Basis: Chapter 811 of the 2018 Virginia Acts of Assembly requires the Virginia Racing Commission to promulgate regulations to implement the provisions of the act to be effective within 180 days of its enactment.

Purpose: The Virginia Racing Commission must promulgate these regulations in order to ensure the integrity and proper oversight of historical horse racing in the Commonwealth of Virginia. Ensuring the integrity of historical horse racing is

very important because it protects the welfare of the citizens of Virginia wagering on the races. These regulations give the Virginia Racing Commission the authority to regulate and audit the results of the races to guarantee that no one has an advantage over anyone else and that the results of the historical races are accurate.

Substance: The proposed regulations address the requirements for an entity licensed to conduct pari-mutuel wagering on historical horse racing, including (i) the location and hours of operation, (ii) types and specifications of the terminals to be utilized, (iii) accounting and auditing, (iv) permits required for licensee employees, (v) simulcast operations, (vi) annual reporting, and (vii) implementation by a licensee of a program to promote responsible gaming and the program's minimum requirements.

Issues: The advantages to the public are that these regulations will provide for the integrity and fairness of the Historical Horse Racing and give the public a state agency to contact if they believe the races to be unfair or have an issue with something done improperly by the operator. The advantage to the Commonwealth is that the Virginia Racing Commission will have the authority to ensure that the Commonwealth and localities receive their mandated percentages of the wagering that takes place. The Virginia Racing Commission does not believe these regulations are disadvantageous to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 811 of the 2018 Acts of Assembly[2] and Governor Northam's Executive Directive One,[3] the Virginia Racing Commission (VRC) proposes to promulgate a permanent regulation to administer historical horse racing (HHR) in the Commonwealth. An emergency regulation is currently in effect that expires on April 4, 2020.[4] The proposed regulation is identical to the emergency regulation.

Background.

Statutory Requirements for Historical Horse Racing. Virginia Code § 59.1-365, as amended by Chapter 811, defines several key aspects of HHR. In particular, the statute defines HHR as:

> a form of horse racing that creates pari-mutuel pools from wagers placed on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a significant infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a significant infrastructure limited licensee or (b) the nonprofit industry stakeholder organization recognized by the Commission and licensed to own or operate such satellite facility.

In practice, HHR is conducted on terminals that are similar to slot machines. Virginia Code § 59.1-365 also defines a "significant infrastructure limited licensee" as "a person who owns or operates a significant infrastructure facility and holds a limited license …" That same Code section defines a "significant infrastructure facility" as:

> a horse racing facility that has been approved by a local referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile dirt track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered seating for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

Colonial Downs in New Kent County is the only current significant infrastructure facility in the Commonwealth.

Chapter 811 further amends Virginia Code § 59.1-365 by specifying certain percentage distributions of the dollars wagered on HHR: a) 0.75 percent to the Commonwealth as a license tax; b) if generated at a racetrack owned or operated by a significant infrastructure limited licensee, 0.5 percent go to the locality where the racetrack is located; and c) if generated at a satellite facility, 0.25 percent go to the locality in which the satellite facility is located and 0.25 percent go to the Virginia locality in which the racetrack is located.

Proposed Regulatory Requirements for HHR. The proposed regulation includes various requirements for providers of HHR. Some of these requirements are referenced later in this analysis:

• For any significant infrastructure limited licensee that offers pari-mutuel wagering on HHR, a minimum number of days of live horseracing (based on number of HHR terminals installed) must be requested.

• Licensee must implement a program to promote responsible gaming by its patrons, which includes:

> ○ Posting in a conspicuous place in every place where pari-mutuel wagering on historical horse racing is conducted a sign that bears a toll-free number approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers,
>
> ○ Routine auditing of patron activity to identify patrons who have suffered significant financial losses in repeated visits to the licensee's facilities and providing such patrons with information on organizations that provide assistance to problem gamblers
>
> ○ Partnership with the Virginia Council on Problem Gambling, the National Council on Problem Gambling, or other similar organization to identify and promote best practices for preventing problem gambling
>
> ○ Training for all employees who have contact with patrons as well as administrative and corporate staff members that shall include skills and procedures to

respond to situations where a patron exhibits warning signs of a gambling problem or where a patron discloses they may have a gambling problem. Such employees and staff should be trained immediately upon their hiring and retrained and tested regularly

○ And other requirements.

Other requirements of interest are:

• Wagering on a historical horse race shall only be conducted by:

○ A significant infrastructure limited licensee; or

○ A satellite facility licensee.

• Wagering on historical horse racing may only take place at a licensed significant infrastructure facility or a licensed satellite facility.

• Licensee shall provide guaranteed funding for all historical horse race pools offered by the licensee. This guarantee shall be in the form of a letter of credit, bond with surety, or other instrument of financial security in an amount and form approved by the commission sufficient to cover outstanding vouchers together with any indebtedness incurred by the licensee to the Commonwealth.

• Specifications for permitted terminal machines.

• Independent integrity check of all software that may affect the integrity of the game.

• Financial reports.

• Application fee of $1,000 paid for each location where the applicant seeks to offer pari-mutuel wagering on historical horse racing.

Estimated Economic Impact.

The proposed regulation with its associated creation of HHR gaming and enabling of live racing, affects employment, business revenues, and tax revenues. Virginians who at least part of the time prefer HHR and/or live horse racing with pari-mutuel betting to other forms of entertainment benefit from the introduction of the new options. Increased access to gambling does have the potential to put some individuals at risk of negative behavior.

Potential Employment and Business Revenue Impact. A firm now called Colonial Downs Group, LLC (CDG) purchased Colonial Downs and thus owns the only significant infrastructure facility in Virginia. Through the emergency regulation in effect, it has become a significant infrastructure limited licensee. It has recently begun to offer HHR at Colonial Downs (April 23, 2019), and at its Town of Vinton satellite location (May 9, 2019). CDG plans to open satellite locations in the City of Richmond, City of Hampton, and City of Chesapeake as well. CDG calls its HHR business Rosie's Gaming Emporium. CDG has purchased (or in the case of Chesapeake, plans to purchase) land and in some cases existing buildings for all four satellite locations. Local contractors and architectural firms have been hired for building and remodeling structures for the four sites.[5] These firms gain in revenue and work hours for their employees.

According to VRC, there are 330 permanent employees at the Colonial Downs location of Rosie's Gaming Emporium and another 150 permanent employees at the Vinton location. In addition, approximately 200 employees each are expected for the Richmond, Hampton, and Chesapeake locations. To the extent that some or many of these employees earn more in these positions than they had previously, they would be able to spend more than before. This would increase revenue for other firms, particularly in or near the above-mentioned localities.

VRC reports that the HHR terminals and associated equipment are all provided by one out-of-state vendor. Other supplies and services, such as food, advertising, and perhaps janitorial services would likely be supplied by Virginia vendors, further benefiting the Virginia economy.

As mentioned above, the significant infrastructure limited licensee must offer live racing. Specifically, any significant infrastructure limited licensee that offers pari-mutuel wagering on HHR must request the following number of days of live horseracing, whichever is greater: a) 15 days of live racing, consisting of not less than six races per day; or b) one day of live racing, consisting of not less than six races per day, for every 100 historical racing terminals installed at such facility together with any satellite facility owned, operated, controlled, managed, or otherwise affiliated directly or indirectly with such licensee.

VRC projects that there will be 3,000 HHR terminals installed by the second year that HHR is in effect in the Commonwealth. Based on VRC's projection, for the third year of HHR CDG would have to provide 30 days[6] of live racing at Colonial Downs.[7] This would induce additional temporary employment for 30 plus days of the year, as work would need to be done to prepare the track and facilities ahead of time, as well as for providing race day services and products (selling tickets, collecting and paying out bets, providing and selling food, etc.). Increase in employment hours and increase in spending at local businesses would be particularly beneficial for New Kent County.

It should be noted that direct expenditures on HHR and live horse racing are dollars not being spent on other goods and services. The providers of these other goods and services are thus negatively affected with reduced revenue; employment for these entities may decline or have reduced growth as well.

Projected Amount Wagered on HHR and Resulting Distribution of Funds. As shown in the table, VRC projects that in the second year of HHR wagering in Virginia, approximately $2.4 billion will be wagered on HHR at

Colonial Downs and at the satellite sites. Since VRC projects that 92% of that amount will be returned to some customers as winnings, the projection indicates that in net about $192 million (the remaining 8%)[8] will actually be spent on HHR wagering for the year. In other words, the "cost" of HHR wagering for all customers in aggregate is about $192 million for the year. In assessing the economic impact, it should be remembered that this $192 million would have been spent on other goods or services, or saved (i.e., deferred spending), if not spent on HHR.

The table also displays VRC's projections for how the $192 million will be distributed in the second year that HHR is in effect. The largest amount, about $147 million, will be retained by CDG. About $18 million will be distributed to the state as a license tax, per Chapter 811; these dollars initially are nongeneral funds to pay for VRC's expenses. The remainder in excess of VRC's expenses, which is expected to be a large majority of the amount collected, will revert to the general fund. Approximately $15 million will go to the Virginia Equine Alliance[9] as a result of a revenue sharing agreement between the Alliance and CDG. Localities will receive about $12 million, as required by Chapter 811. Chapter 811 directs how payments to localities are distributed. Accordingly, New Kent County (as the locality where the racetrack is located) would get well over half of the projected $11,976.563 distribution to the localities. The Town of Vinton, and the Cities of Richmond, Hampton, and Chesapeake (as the localities in which the satellite facilities are located) would split the remainder.

Type of Distribution	Amount of Distribution	Percentage of Total Amount Wagered
Amount returned to customers as winnings	$2,203,687,500	92.00% [10]
Amount kept by CDG	$146,832,656	6.13%
State	$17,964,844	0.75% [11]
Virginia Equine Alliance	$14,850,938	0.62% [12]
Localities	$11,976,563	0.50% [13]
Subtotal: amount spent on HHR wagering	$191,625,000	8.00%
Total Amount Wagered	$2,395,312,500	100.00%

Potential Impact on State Revenues. Governor Northam's Executive Directive One directs the Department of Planning and Budget, in conducting its economic impact analysis, to consider the impact these regulations will have on potential future revenues to the Commonwealth from other sources. As discussed above, VRC projects that 92% of the amount wagered (about $2.2 billion) will be returned to customers as winnings. As a result, the remaining 8% (about $192 million) will be "spent" by customers because it is not returned to them. This $192 million includes the state license tax. [14] This license tax revenue of $17,964,844 is collected as state nongeneral fund revenue and equates to 9.4% of the $192 million spent by customers on HHR. [15]

Expenditures on HHR wagering increase state revenues compared to revenues from state sales taxes (all funds). Had customers not engaged in HHR wagering, the $192 million would have been spent on other goods or services, or saved (i.e., deferred spending). It is not known how customers may have spent this amount, but state revenues are increased to the extent that customers spend this amount on HHR instead of goods and services subject to the state sales tax. The general state sales tax rate is 5.3%. To compare revenues from the sales tax with revenues from HHR, where the $192 million spent by customers includes the state license tax, the $192 million spent on other goods and services also includes revenues from the sales tax.[16] This sales tax revenue of $9,644,943 is collected as state general fund revenue and equates to 5.0% of the $192 million spent by consumers on other goods and services. Accordingly, for each $1 million spent on HHR rather than on goods and services subject to the 5.3% state sales tax, state revenues would be about $44,000 higher. [17] In addition, some goods and many services[18] are exempt from the state sales tax, or subject to lower rates. As a result, expenditures on HHR rather than these goods and services would result in a greater increase in state revenue collected.

Expenditures on HHR wagering decrease state revenues compared to revenues from the Virginia Lottery. For Virginia Lottery sales, 61% goes back to customers as winnings. Of the 39% that is "spent" by customers, 33% is collected by the state (28% is passed through to local school divisions for public education, and 5% is retained by the Virginia Lottery for expenses). [19] In other words, the amount collected by the state equates to 84.6% of the amount "spent" by customers. [20] Accordingly, for each $1 million spent on HHR rather than on lottery tickets, state revenues would be about $750,000 lower. [21]

Other Factors. Increased access to gambling, such as HHR, may negatively affect the lives of people who have compulsive gambling disorder. The Mayo Clinic defines compulsive gambling as "the uncontrollable urge to keep gambling despite the toll it takes on your life," and further states that "Gambling can stimulate the brain's reward system much like drugs or alcohol can, leading to addiction. If you

have a problem with compulsive gambling, you may continually chase bets that lead to losses, hide your behavior, deplete savings, accumulate debt, or even resort to theft or fraud to support your addiction." [22]

The proposal in the regulation to require that the licensee implement a program to promote responsible gaming by its patrons may help alleviate this problem. VRC reports that CDG has implemented such a program that meets all of the attributes designated in the proposed regulation, including forming a partnership with the Virginia Council on Problem Gambling, training all employees who have contact with patrons that include skills and procedures to respond to situations where a patron exhibits warning signs of a gambling problem, etc.

Conclusion. The proposed regulation with its associated creation of HHR gaming and re-introduction of live racing at Colonial Downs may be beneficial in that it may lead to some Virginians who are currently going out of state to gamble, to instead gamble and spend within the Commonwealth. Also, it may lead to visitors from out-of-state who otherwise would not have spent on goods and services in the Commonwealth to come and do so. Some localities, particularly New Kent County, will clearly benefit. Some businesses will benefit, while others will have reduced revenue. Commensurately, employment will increase for some firms and may decline for some others. For some Virginians, getting additional entertainment options that are not currently available, HHR and live racing with pari-mutuel betting, would be beneficial in that it would increase their personal enjoyment. Increased access to gambling could be problematic for some individuals, but requirements in the regulation for a program to promote responsible gaming may significantly ameliorate that risk.

Businesses and Entities Affected. The proposed regulation particularly affects firms associated with the horseracing and gaming industries and suppliers to these industries.

Localities Particularly Affected. The proposed regulation particularly affects New Kent County, Town of Vinton, City of Richmond, City of Hampton, and City of Chesapeake.

Projected Impact on Employment. The net impact on employment statewide is unclear. The proposed regulation with its associated creation of HHR gaming and re-introduction of live racing at Colonial Downs would increase employment at Colonial Downs and at the satellite facilities. Some or many of these newly hired individuals would likely be earning more in these positions than they had previously. This would enable them to spend more elsewhere, helping other businesses, particularly in or near Colonial Downs and the satellite locations. These other businesses may hire additional employees to meet the increased demand for their goods and services, and so on. Suppliers of goods and services to CDG may also hire additional employees.

On the other hand, the projected $192 million in expenditures on HHR (and additional spending on live racing at Colonial Downs) is $192 million that would otherwise have been spent on other goods and services. In not receiving the $192 million dollars, these other entities would likely not employ as many people as they otherwise would.

Effects on the Use and Value of Private Property. The proposed regulation with its associated creation of HHR gaming helps enable Colonial Downs to be once again used for live horse racing, increasing its value. The value of CDG and its suppliers of goods and services would increase. The value of firms that lose business due to the estimated $192 million being spent on HHR (and additional expenditures on live racing at Colonial Downs) would decrease.

Real Estate Development Costs. The proposed regulation does not appear to affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

Costs and Other Effects. The proposed regulation with its associated creation of HHR gaming and re-introduction of live racing at Colonial Downs would increase the demand for the goods and services provided by some small businesses as described, and would likely decrease the demand for the goods and services provided by some other small businesses, as consumer dollars are spent on HHR rather than their goods or services.

Alternative Method that Minimizes Adverse Impact. There is no apparent alternative method that would reduce the adverse impact while still meeting the intended policy goal.

Adverse Impacts:

Businesses. The proposed regulation with its associated creation of HHR gaming and re-introduction of live racing at Colonial Downs would likely decrease the demand for the goods and services provided by some other businesses to the extent that consumer dollars are spent on HHR rather than their goods or services.

Localities. The proposed regulation does not directly adversely affect localities.

Other Entities. The proposed regulation with its associated creation of HHR gaming and re-introduction of live racing at Colonial Downs may decrease the demand for the goods and services provided by some nonbusiness entities, such as the Virginia Lottery, as consumer dollars are spent on HHR rather than their goods or services.

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[1]Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

[2]See http://leg1.state.va.us/cgi-bin/legp504.exe?181+ful+CHAP0811

[3]See https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/ed-1-directing-the-virginia-racing-commission-regarding-regulations-related-to-historic-horse-racing-pursuant-to-house-bill-1609.pdf

[4]See https://townhall.virginia.gov/l/ViewStage.cfm?stageid=8420

[5]Source: VRC

[6]VRC may approve fewer than the requested number of live racing days if it believes it is in the best interest of the public.

[7]3,000 / 100 = 30

[8]$2,395,312,500 x 0.08 = $191,625,000

[9]The Virginia Equine Alliance consists of the Virginia Harness Horse Association, the Virginia Horsemen's Benevolent & Protective Association, the Virginia Gold Cup Association, and the Virginia Thoroughbred Association.

[10]According to VRC, CDG is currently paying back 93.5%, which is typical for a casino to do when it first opens up. VRC projects that the payout will be 92.00% in the second year.

[11]Chapter 811 specifies that 0.75% go to the Commonwealth as a license tax.

[12]The 0.62% is the result of a revenue sharing agreement between the Virginia Equine Alliance and CDG.

[13]Chapter 811 specifies that 0.5% go to localities.

[14] As required by Chapter 811, the 0.75% state license tax rate is applied to the total amount wagered, not the amount spent by customers.

[15]As shown in the table above, the projected state tax revenue with the projected wagering is $17,964,844. $17,964,844 / $191,625,000 = 0.094

[16]$191,625,000 / 1.053 = $181,980,057; Sales tax paid = $191,625,000 - $181,980,057 = $9,644,943.

[17]$1,000,000 x 0.094 - $1,000,000 x 0.050 = $94,000 - $50,000 = $44,000.

[18]See https://law.lis.virginia.gov/vacode/58.1-609.5/

[19]Source: Virginia Lottery. The remaining 6% is retained by retailers.

[20]33 / 39 = 0.846

[21]$1,000,000 x 0.094 - $1,000,000 x 0.846 = $94,000 - $846,000 = -$752,000

[22]See https://www.mayoclinic.org/diseases-conditions/compulsive-gambling/symptoms-causes/syc-20355178

Agency's Response to Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

Summary:

The proposed action establishes regulations to implement Chapter 811 of the 2018 Acts of Assembly, which authorizes historical horse racing at facilities licensed by the Virginia Racing Commission throughout the Commonwealth of Virginia. The proposed requirements for an entity licensed to conduct pari-mutuel wagering on historical horse racing include (i) the location and hours of operation, (ii) types and specifications of the terminals to be utilized, (iii) accounting and auditing, (iv) permits required for licensee employees, (v) simulcast operations, (vi) annual reporting, and (vii) implementation by a licensee of a program to promote responsible gaming and the minimum requirements for such a program.

CHAPTER 47
HISTORICAL HORSE RACING

11VAC10-47-10. Definitions.

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

"Act" means Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia.

"Applicant" means an individual who has submitted an application to obtain a license to offer pari-mutuel wagering on historical horse racing from the commission.

"Commission" means the Virginia Racing Commission.

"Historical horse racing" means a form of horse racing that creates pari-mutuel pools from wagers placed on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a significant infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a significant infrastructure limited licensee or (b) the nonprofit industry stakeholder organization recognized by the commission and licensed to own or operate such satellite facility.

"Independent testing laboratory" means a laboratory with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with this chapter and to otherwise perform the functions assigned to it by this chapter. An independent testing laboratory shall not be owned or controlled by a licensee, the state, or any manufacturer, supplier, or operator of historical horse racing terminals.

"Integrity auditor" means a company that conducts periodic and regular tests on the validity of pari-mutuel wagering, deductions, and payouts for the applicable historical horse racing event, including the legitimacy of the event itself, and tests that the order of finish of the race selected in the game is valid, match to the order of finish that occurred empirically, and that all runners that were listed as entered into the race for the purposes of the game, legitimately ran in the race.

"Licensee" means any person holding an owner's or operator's license under Article 2 (§ 59.1-375 et seq.) of Chapter 29 of the Code of Virginia who is granted a license by the commission under this chapter to conduct pari-mutuel wagering on historical horse racing.

"Satellite facility" means all areas of the property at which simulcast horse racing is received for the purposes of pari-mutuel wagering and any additional areas designated by the commission for conducting pari-mutuel wagering on historical horse racing.

11VAC10-47-20. Pari-mutuel wagering; generally.

The commission is authorized to issue licenses to (i) holders of a significant infrastructure limited license or (ii) holders of a satellite facility license to conduct pari-mutuel wagering on historical horse racing for the promotion, sustenance, and growth of a native industry, in a manner consistent with the health, safety, and welfare of the people. Pari-mutuel wagering on historical horse racing shall be conducted so as to maintain horse racing in the Commonwealth of Virginia of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practices and to maintain in horse racing complete honesty and integrity. This chapter shall exclusively govern all matters related to pari-mutuel wagering on historical horse racing.

11VAC10-47-30. Observance of regulations.

A licensee shall be charged with the observance and compliance with the act and the regulations of the commission.

11VAC10-47-40. Requirements for wagering on historical horse racing.

A. In accordance with the act, wagering on a historical horse race shall only be conducted by:

1. A significant infrastructure limited licensee; or

2. A satellite facility licensee.

B. Wagering on historical horse racing may only take place at a licensed significant infrastructure facility or a licensed satellite facility.

C. A licensee may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets conducted by the licensee.

D. The minimum wager to be accepted by any licensee on the outcome of a historical horse race shall be $ .10. The minimum payout on any wager shall not be less than the amount wagered.

E. Any wager placed on a historical horse race is a multiple wager.

F. The terminal may display the wager and its outcome as part of an entertaining display or game, provided the wager functions according to the pari-mutuel wagering pool specifications provided by the licensee to and approved by the commission. A licensee may not offer a new display or game without prior approval of the commission as set forth in this chapter.

G. All wagering on a historical horse race shall incorporate the following elements:

1. A patron may only wager on a historical horse race on a terminal approved by the commission;

2. A licensee shall at all times maintain at least two terminals offering wagering on historical horse races for each pool and minimum wager denomination;

3. Prior to the patron making wager selections, the terminal shall not display any information that would allow the patron to identify the historical race on which the patron is wagering, including the location of the race, the date on which the race was run, the names of the horses in the race, or the names of the jockeys who rode the horses in the race;

4. The terminal shall make available true and accurate past performance information on the historical horse race to the patron prior to the patron making wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form; and

5. After a patron finalizes wager selections, the terminal shall display the official results of the race and a replay of the race, or a portion thereof, whether by digital, animated, or graphical depiction or by way of a video recording. The identity of the race shall be revealed to the patron after the patron has placed a wager.

11VAC10-47-50. Location and hours of operation of terminals used for wagering on historical horse racing.

A. Pari-mutuel wagering on historical horse races shall only be permitted in designated areas that have the prior written approval of the commission and are on the premises of a significant infrastructure limited licensee or satellite facility licensee.

B. A licensee shall request permission from the commission to alter the physical layout of the area permitted for historical horse racing.

C. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any patron who is younger than 18 years of age or is otherwise not permitted to place wagers.

D. The designated area shall provide terminals that are accessible to handicapped persons.

E. A licensee may conduct pari-mutuel wagering on historical horse races on days and hours approved by the commission.

11VAC10-47-60. Payouts from pari-mutuel pools generated by wagering on historical horse racing.

A. A wager on a historical horse race, less deductions permitted by the act, shall be placed in pari-mutuel pools approved by the commission.

B. A licensee shall provide guaranteed funding for all historical horse race pools offered by the licensee. This

guarantee shall be in the form of a letter of credit, bond with surety, or other instrument of financial security in an amount and form approved by the commission sufficient to cover outstanding vouchers together with any indebtedness incurred by the licensee to the Commonwealth.

C. A licensee offering wagering on a historical horse race shall maintain pari-mutuel pools for each wager in a manner and method approved by the commission. The pari-mutuel pools shall be maintained and funded in a method approved by the commission to ensure that the amount available in the pari-mutuel pools at any given time is sufficient to ensure that a patron will be paid the minimum amount required on a winning wager.

D. All prizes awarded from a historical horse race wager shall be awarded from an existing pari-mutuel pool. The money in the pool shall only consist of money wagered by patrons or allocated to the pari-mutuel pool. Wagers made on a historical horse race shall not constitute a wager against the licensee. Wagers shall not be conducted in a manner in which the amount retained by the licensee is dependent upon the outcome of any particular race or the success of any particular wager.

E. The rules for the mathematical model, configuration of pools, and pool payout methodology shall be described in game specification documentation, which shall be provided by the licensee to the commission.

F. Controls shall be in place to ensure that depletion of a pari-mutuel pool below an amount required to pay all winning tickets shall be detected at the time of depletion, and depletion shall result in the automatic suspension of any wagering activity related to that pool. The commission shall be notified immediately in the event of the suspension of wagering activity of any historical horse racing pool.

11VAC10-47-70. Commission approval of historical horse racing games and displays.

A. A licensee shall submit a written request to the commission for permission to offer a multiple wager on a historical horse race. The written request shall include a detailed description of the rules that apply to the pari-mutuel wager, the method of calculating payouts, and the method by which money will be allocated to the pari-mutuel pool, if applicable. This documentation shall fully and accurately describe:

1. The method of determining a game outcome;

2. Available wagering denominations;

3. Minimum wager amount;

4. Maximum wager amount;

5. The allocation of wagers into the pari-mutuel pool;

6. The amount of takeout for each wager;

7. The method of calculating winning payouts and breakage, where applicable;

8. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;

9. The minimum payouts and the method of guaranteeing minimum payouts;

10. The method of mapping payouts to an entertaining display on the wagering terminal; and

11. Any other information provided to an independent testing laboratory for use in the testing of the pari-mutuel wagers.

B. For wagering on historical horse racing, approximate odds or payouts for each pool shall be available on each respective terminal for viewing by patrons.

C. In conspicuous places in the designated area, each licensee shall post (i) a general explanation of pari-mutuel wagering offered on historical horse races and (ii) an explanation of each betting pool offered in the terminal menus. The explanation shall be submitted to the commission for approval prior to its posting.

11VAC10-47-80. Equipment required for pari-mutuel wagering on historical horse races.

A. Wagering on historical horse races shall be offered on terminals that include a cabinet in which the electronics and other operating components are located. All terminals and other equipment shall be subject to inspection by the commission.

B. The terminal shall:

1. Protect against electrostatic interference by being grounded so that static discharge energy shall not permanently damage or inhibit the normal operation of the electronics or other components within the wagering terminal. In the event that a temporary disruption of the normal operation of a wagering terminal occurs as a result of an electrostatic discharge, the wagering terminal shall have the capacity to recover and complete any interrupted wager without loss or corruption of any control or critical data information. Each terminal shall be tested to a maximum discharge severity level of 27 kV air discharge;

2. Not be adversely affected, other than during resets, by surges or dips of up to 20% of the supply voltage. If a wagering terminal is designed such that a surge or dip of up to 20% of the supply voltage causes a reset, the terminal shall also be designed so that a surge or dip shall not result in damage to the equipment or loss or corruption of data. Upon reset, the game shall return to its previous state or return to a game completion state, provided the game history and all credit and accounting meters comprehend a completed game;

3. Have an on/off switch that controls the electrical current installed in a readily accessible location within the interior of the terminal so that power cannot be disconnected from outside of the terminal using the on/off switch. The on/off positions of the switch shall be labeled;

4. Be designed so that power and data cables into and out of the terminal can be routed so that they are not accessible to the general public. Security-related wires and cables that are routed into a logic area shall be securely fastened within the interior of the terminal;

5. Have an identification badge affixed to the exterior of the terminal by the manufacturer that is not removable without leaving evidence of tampering. This badge shall include the following information:

a. The name of the manufacturer;

b. A unique serial number;

c. The terminal model number; and

d. The date of manufacture;

6. Have an external tower light located conspicuously on the top of the terminal that automatically illuminates when a patron has won an amount that the terminal cannot automatically pay or when an error condition has occurred;

7. Be constructed of materials that are designed to allow only authorized access to the inside of the terminal. The terminal and its locks, doors, and associated hinges shall be capable of withstanding determined and unauthorized efforts to gain access to the inside of the terminal and shall be designed to leave evidence of tampering if such an entry is made;

8. Have seals between the terminal and the doors of a locked area that are designed to resist the use of tools or other objects used to breach the locked area by physical force;

9. Have external doors that shall be locked and monitored by door access sensors. When the external doors are opened, the door access sensors shall (i) cause game wagering activity to cease, (ii) disable all currency acceptance, (iii) enter an error condition, (iv) illuminate the tower light at a minimum, and (v) record the error condition. The requirements of this subsection do not apply to the drop box door;

10. Have external doors designed so that it shall not be possible to insert a device into the terminal that will disable a "door open" sensor without leaving evidence of tampering when the door of the terminal is shut;

11. Have a sensor system that shall provide notification that an external door is open when the door is moved from its fully closed and locked position, provided power is supplied to the device;

12. Have a logic area, which is a separately locked cabinet area with its own monitored, locked door or other monitored, locked covering that houses electronic components that have the potential to significantly influence the operation of the terminal. There may be more than one such logic area in a terminal. The electronic components housed in the logic area shall include:

a. A central processing unit and any program storage device that contains software that may affect the integrity of wagering, including the game accounting, system communication, and peripheral firmware devices involved in or that significantly influence the operation and calculation of game play, game display, game result determination, or game accounting, revenue, or security;

b. Communication controller electronics and components housing the communication program storage device; and

c. The nonvolatile memory backup device, which if located in the logic area, shall be kept within a locked logic area; and

13. Have a currency storage area that is separately keyed and fitted with sensors that indicate "door open/close" or "stacker receptacle removed," provided power is supplied to the device. Access to the currency storage area shall be secured by two locks before the currency can be removed. The locks shall be located on the relevant outer door and on at least one other door.

C. Critical memory storage shall be maintained by a methodology that enables errors to be identified. This methodology shall include signatures, checksums, partial checksums, multiple copies, timestamps, effective use of validity codes, or any combination of these methods.

D. Comprehensive checks of critical memory shall be made following game initiation but prior to display of game outcome to the patron.

E. An unrecoverable corruption of critical memory shall result in an error state. The memory error shall not be cleared automatically and shall cause the terminal to cease further functioning. The critical memory error shall also cause any communication external to the terminal to immediately cease. An unrecoverable critical memory error shall require restoration or clearing of software state by an authorized person.

F. If critical memory is maintained in nonvolatile memory on the terminal and not by the server based system, then:

1. The terminal shall have the ability to retain data for all critical memory as defined in this section and shall be capable of maintaining the accuracy of the data for 30 days after power is discontinued from the terminal;

2. For rechargeable battery types only, if the battery backup is used as an off-chip battery source, it shall

recharge itself to its full potential in a maximum of 24 hours. The shelf life of the battery shall be at least five years;

3. Nonvolatile memory that uses an off-chip backup power source to retain its contents when the main power is switched off shall have a detection system that will provide a method for software to interpret and act upon a low battery condition before the battery reaches a level where it is no longer capable of maintaining the memory in question. Clearing nonvolatile memory shall require access to the locked logic area or other secure method, provided that the method is approved by the commission; and

4. Following the initiation of a nonvolatile memory reset procedure, the game program shall execute a routine that initializes all bits in critical nonvolatile memory to the default state. All memory locations intended to be cleared as per the nonvolatile memory clear process shall be fully reset in all cases.

G. Critical memory of a server-based game may be maintained by the server, terminal, or some combination thereof. The critical memory related to each terminal shall:

1. Be kept independent to all other wagering terminals. If corruption occurs in any single terminal's critical memory no other terminal shall be effected by the terminal's corrupt memory state; and

2. Be clearly identified as to which physical terminal the critical memory represents, through unique identification, such as serial number or other unique terminal hardware identifier.

H. All terminals shall be equipped with a device, mechanism, or method for retaining the value of the meter information specified in 11VAC10-47-10 in the event of a loss of power to the terminal. Storage and retrieval of the accounting meters from a server is an acceptable method of retrieval.

I. Configuration setting changes shall not cause an obstruction to the meters.

J. If the terminal is in a test, diagnostic, or demonstration mode, any test that incorporates credits entering or leaving the terminal shall be completed prior to resumption of normal operation. In addition, there shall not be any mode other than normal wagering operation that debits or credits any of the electronic meters. Any wagering credits on the terminal that were accrued during the test, diagnostic, or demonstration mode shall be cleared before the mode is exited. Specific meters are permissible for these types of modes, provided the meters are clearly identified.

K. Terminals shall not allow any information contained in a communication to or from the online monitoring system that is intended to be protected, including validation information, secure PINs, credentials, or secure seeds and keys, to be viewable through any display mechanism supported by the terminal.

L. All program storage devices shall:

1. Be housed within a fully enclosed and locked logic compartment;

2. Validate themselves during each processor reset; and

3. Validate themselves the first time they are used.

M. Program storage devices that do not have the ability to be modified while installed in the terminal during normal operation shall be clearly marked with information to identify the software and revision level of the information stored in the devices.

N. Terminals shall have the ability to allow for an independent integrity check of all software that may affect the integrity of the game. The integrity check shall be by an independent testing laboratory approved by the commission.

1. The independent testing laboratory's software may be embedded within the game software, utilize an interface port to communicate with the terminal, or require the removal of terminal media for external verification.

2. Each terminal used for wagering on historical horse races shall be tested by the independent testing laboratory to ensure its integrity and proper working order. This evaluation shall include a review of installed software prior to implementation and periodically within a timeframe established by the commission.

3. The licensee shall pay the cost of the independent testing laboratory's review and testing, and the reports of the same shall be delivered to the licensee and the commission.

4. To ensure the integrity of pari-mutuel wagering and validity of the race results, the licensee shall permit an integrity auditor, selected and paid for by the commission, complete access to review and monitor the integrity, security, and operation, including all race and handicapping data used in order to detect any compromise of or anomalies that would allow a player to have an unfair advantage.

5. The integrity auditor shall be in a position to extract actual data and use a statistically significant portion of this data applied to quality assurance testing and assess the validity of the vendor's management reporting by cross-referencing to a body of raw source information to determine correctness. The integrity auditor shall have experience and expertise involving all components of pari-mutuel wagering and totalizator systems.

6. The integrity auditor will collect and provide wagering data and reports from the licensee's vendor. This shall include pari-mutuel commission and liability reports for analysis and verification of the amounts wagered, payouts,

takeout, and taxes in addition to all transactional data logs and reports daily as specified by the integrity auditor.

7. The licensee shall provide access to the integrity auditor to conduct periodic onsite inspections and terminal audits at licensed racetracks and satellite wagering facilities with assistance from the vendor. The licensee shall supply advanced notification, when possible, of at least 30 calendar days of all new game products, changes in the composition of the historic horse races in the library, any changes to reporting or the method of provision of those reports, and any adverse or unusual occurrences relating to the operation of play or payouts to the integrity auditor.

O. Winning pari-mutuel wagers shall be processed according to U.S. Internal Revenue Service reporting requirements for the taxation of pari-mutuel horse racing. If a winning amount is in excess of the thresholds established in the Internal Revenue Service reporting requirements, the terminal shall cease operation and require attendant interaction to proceed.

P. Terminals shall be capable of detecting and displaying the following errors:

1. Open door conditions;

2. Nonvolatile memory errors;

3. Low nonvolatile memory battery for batteries external to the nonvolatile memory itself for low power source;

4. Program error or authentication mismatch;

5. Display device errors; and

6. The identification of an invalid bill or voucher.

Q. Detection of terminal error conditions must result in actions to protect the integrity of the game. Following detection of an error condition:

1. The terminal shall secure itself and it shall:

a. Cause the terminal to cease play and require attendant intervention prior to returning to normal play;

b. Cause the terminal to display an appropriate error message;

c. Disable bill and voucher acceptance;

d. Sound an alarm, illuminate the tower light, display the error on screen, or any combination of the three;

e. Be communicated to an online monitoring and control system;

f. Be displayed on a terminal; and

g. Cause the terminal to remain in error mode if the terminal is powered down with an unresolved error condition, unless power down is used as a part of the error reset procedure.

2. Upon resolution of an error condition, a terminal may return to a wager completion state, provided the game history, wagering credits, and other meters display the completed wager properly.

R. Terminals shall not be adversely affected by the simultaneous or sequential activation of various terminal inputs and outputs.

S. Test, diagnostic, or demonstration modes on a terminal shall:

1. Be entered only from an attendant following appropriate instructions;

2. Not be accessible to a patron; and

3. Be indicated on the terminal via an appropriate message.

T. Upon exiting from test, diagnostic, or demonstration mode, a terminal shall return to its previous state.

U. Video monitor touch screens on terminals shall:

1. Be accurate within one millimeter of the center of a physical input;

2. Be able to be calibrated without access to the terminal cabinet other than opening the main door, and once calibrated shall maintain accuracy for at least the video touch screen manufacturer's recommended maintenance period; and

3. Have no hidden or undocumented buttons or touch points anywhere on the screen that affect wagering or that impact the outcome of the game, except as provided by the game rules.

V. Paper currency acceptors used in a terminal shall:

1. Be electronically based;

2. Detect the entry of bills or vouchers inserted into the paper currency acceptor and provide a method to enable the terminal software to interpret and act appropriately upon a valid or invalid input;

3. Be configured to ensure the acceptance of only valid bills or vouchers and reject all other items;

4. Return to the patron all rejected bills or vouchers, and any other item inserted into the acceptor;

5. Be constructed in a manner that protects against vandalism, abuse, or fraudulent activity;

6. Register the actual monetary value or appropriate number of wagering credits received for the denomination used on the patron's credit meter for each valid bill or voucher;

7. Register wagering credits only when the bill or other note has passed the point where it is accepted or stacked

and the acceptor has sent an "irrevocably stacked" message to the terminal;

8. Be designed to prevent the use of fraudulent crediting, the insertion of foreign objects, and any other fraudulent technique;

9. Implement a method of detecting counterfeit bills;

10. Only accept bills or vouchers when the terminal is enabled for play;

11. Have the capability of detecting and displaying any supported error conditions;

12. Shall communicate with the terminal using a bi-directional protocol;

13. Be located in a locked area of the terminal that requires the opening of the main door for access. The paper currency acceptor shall not be located in the logic area. Only the bill or voucher insertion area shall be accessible by the patron;

14. Have a secure stacker that shall:

a. Deposit into the stacker all accepted items;

b. Be attached to the terminal in such a manner that it cannot be easily removed by physical force; and

c. Have a separate keyed lock to access the stacker area. The keyed lock shall be separate from the main door, and a separate keyed lock shall be required to remove the bills from the stacker; and

15. Have a bill validator that shall:

a. Retain in its memory and have the ability to display the information required of the last 25 items accepted by the bill validator;

b. Have a recall log that may be combined or maintained separately by item type. If combined, the type of item accepted shall be recorded with the respective timestamp; and

c. Give proper credit or return the bill or note if power failure occurs during acceptance of a bill or note.

W. Available wagering credit may be collected from the terminal by the patron at any time other than during:

1. A game being wagered;

2. Audit mode;

3. Test mode;

4. A credit meter or win meter increment; or

5. An error condition.

X. Each terminal shall be equipped with a printer that:

1. Is used to make payments to the patron by issuing a printed voucher. The terminal shall transmit the following data to an online system that records the following information regarding each payout ticket or voucher printed:

a. The value of credits in local monetary units in numerical form;

b. The time of day the ticket or voucher was printed in 24-hour format, showing hours and minutes;

c. The date, in format approved by the commission, indicating the day, month, and year that the ticket or voucher was issued;

d. The terminal number; and

e. A unique ticket or voucher validation number.

2. Prints only one copy to the patron and retains information on the last 25 printed vouchers;

3. Is housed in a locked area of the terminal but shall not be located within the logic area or the drop box; and

4. Allows control program software to interpret and act upon all error conditions.

Y. Terminals shall be capable of displaying wager recall, which shall:

1. Include the last 50 wagers on the terminal;

2. Be retrievable on the terminal via an external key-switch or other secure method not available to the patron; and

3. Provide all information required to fully reconstruct the wagers, including:

a. Initial credits or ending credits associated with the wager;

b. Credits wagered;

c. Credits won;

d. Entertaining game display symbol combinations and credits paid whether the outcome resulted in a win or a loss;

e. Representation in a graphical or text format;

f. Final wager outcome, including all patron choices and all bonus features; and

g. As an optional feature, display of values as currency in place of wagering credits.

Z. Server-stored information shall be backed up no less often than once per day to an offsite storage facility controlled by the licensee. Offsite storage may include storage through a cloud service provider if approved by the commission. The server and offsite backup storage shall be accessible to the commission and subject to third-party

checks and validation as provided in subsection N of this section.

11VAC10-47-90. Requirements for tickets or vouchers used in historical horse racing.

A. Terminals shall not dispense currency. Payment to patrons shall only be accomplished by means of a printed voucher.

B. All vouchers shall contain the following printed information at a minimum:

1. Licensee name and site identifier, which may be contained on the ticket stock itself;

2. Terminal number or cashier booth location;

3. Date and time stated in a 24-hour format according to the local time zone;

4. Alpha and numeric dollar amount;

5. Ticket or voucher sequence number;

6. Validation number;

7. Bar code or any machine-readable code representing the validation number;

8. Type of transaction or other method of differentiating voucher types. If the voucher is a noncashable item, the ticket shall explicitly express that it has "no cash value"; and

9. The expiration period from date of issue, or date and time the ticket or voucher will expire in a 24-hour format according to the local time zone. This information may be contained on the ticket stock itself. Payment on valid pari-mutuel tickets, including tickets where refunds are ordered, shall be made only upon presentation and surrender of valid pari-mutuel tickets to the licensee within 180 days after the purchase of the ticket. Failure to present any valid pari-mutuel ticket to the licensee within 180 days after the purchase of the ticket shall constitute a waiver of the right to payment.

C. A system approved by the commission shall be used to validate the payout ticket or voucher. The ticket or voucher information on the central system shall be retained for two calendar years after a voucher is valid at that location.

D. Payment by voucher as a method of credit redemption shall only be permissible when the terminal is linked to a computerized voucher validation system that is approved by the commission.

E. The validation system must be able to identify a duplicate ticket or voucher to prevent fraud.

F. Terminals must meet the following minimum requirements to incorporate the ability to issue offline vouchers after a loss of communication has been identified by a wagering terminal:

1. The wagering terminal shall not issue more offline vouchers than it has the ability to retain and display in the wagering terminal maintained voucher-out log;

2. The wagering terminal shall not request validation numbers used in the issuance of vouchers until all outstanding offline voucher information has been fully communicated to the voucher validation system;

3. The wagering terminal shall request a new set of validation numbers used in the issuance of online or offline vouchers if the current list of validation numbers has the possibility of being compromised, which shall include:

a. After power has been recycled, or

b. Upon exit of a main door condition; and

4. Validation numbers must always be masked when viewable through any display supported by the wagering terminal such that only the last four digits of the validation number are visible.

G. Vouchers may be inserted in any terminal participating in the validation system providing that no credits are issued to the terminal prior to confirmation of voucher validity.

H. The offline voucher redemption may be validated as an internal control process at the specific terminal that issued the voucher. A manual handpay may be conducted for the offline voucher value.

11VAC10-47-100. Accounting and occurrence meter requirements.

A. The required accounting meters are as follows:

1. Coin in, which accumulates the total value of all wagers, whether the wagered amount results from the insertion of bills or vouchers or deduction from a credit meter;

2. Coin out, which accumulates the total value of all amounts directly paid by the terminal as a result of winning wagers, whether the payback is made to a credit meter or any other means;

3. Attendant paid jackpot, which accumulates the total value of credits paid by an attendant resulting from a single wager, the amount of which is not capable of being paid by the wagering terminal itself;

4. Attendant paid canceled credit, which accumulates the total value paid by an attendant resulting from a patron-initiated cashout that exceeds the physical or configured capability of the terminal to make the proper payout amount;

5. Bill in, which accumulates the total value of currency accepted. Each wagering terminal shall have a specific occurrence meter for each denomination of currency

accepted that records the number of bills accepted of each denomination;

6. Voucher in, which accumulates the total value of all wagering terminal vouchers accepted by the device;

7. Voucher out, which accumulates the total value of all wagering terminal vouchers issued by the device;

8. Noncashable electronic promotion in, which accumulates the total value of noncashable credits from vouchers accepted by the terminal;

9. Cashable electronic promotion in, which accumulates the total value of cashable credits from vouchers accepted by the terminal;

10. Noncashable electronic promotion out, which accumulates the total value of noncashable credits issued to vouchers by the device; and

11. Cashable electronic promotion out, which accumulates the total value of cashable credits issued to vouchers by the device.

B. Additional required occurrence meters are as follows:

1. Cashable promotional credit wagered, which accumulates the total value of promotional cashable credits that are wagered;

2. Games wagered, which accumulates the number of wagers placed; and

3. Games won, which accumulates the number of wagers resulting in a win to the patron.

C. Electronic accounting meters shall maintain and calculate data to at least 10 digits in length.

D. Electronic accounting meters shall be maintained in credit units equal to the denomination or in dollars and cents.

E. If the electronic accounting meter is maintained in dollars and cents, eight digits must be used for the dollar amount and two digits must be used for the cents amount.

F. Devices configured for multi-denomination wagering shall display the units in dollars and cents at all times.

G. Any time the meter exceeds 10 digits or after 9,999,999,999 has been exceeded, the meter must roll over to zero.

H. Occurrence meters shall be at least eight digits in length but are not required to automatically roll over.

I. Meters shall be identified so that they can be clearly understood in accordance with their function.

J. A wagering terminal shall maintain sufficient electronic metering to be able to display the following:

1. The total monetary value of all items accepted on the terminal;

2. The total number of all items accepted on the terminal;

3. For bills accepted, the number of bills for each bill denomination; and

4. For all other notes accepted, the number of notes accepted by note amount.

K. Meters can be on the server instead of the terminal.

11VAC10-47-110. Historical horse race specifications and selection requirements.

A. The outcome of any historical horse race wager shall be derived from the result of one or more historical horse races.

B. All historical horse races must be chosen at random from a database of actual historical horse races. All races in the database shall have a valid historical horse race result with details recorded at the same level as other races in the database, and shall include:

1. Horse names;

2. Race location;

3. Race date; and

4. Jockey name.

C. In the case where a random number generator is used to select the historical horse races for a wager, all possible races in the database shall be available for selection.

11VAC10-47-120. Wagering terminal historical race display.

A. All wagering terminals shall have video displays that clearly identify the entertaining game theme, if any, being used to offer pari-mutuel wagering on historical horse racing. The video display shall make available the rules of the historical horse racing wager and the award that will be paid to the patron when the patron obtains a specific win.

B. All paytable information, rules of play, and help screen information shall be available to a patron prior to placing a wager.

C. All wagering terminals shall have video displays that make available to the patron the rules of any features or interactive functions that may occur on the patron interface as part of the entertaining display of the wager and its outcome.

D. The video display shall clearly indicate whether awards are designated in credits or currency.

E. All wagering terminals shall display the following information to the patron at all times the wagering terminal is available for patron wager input:

1. The patron's current credit balance in currency or credits;

2. The current bet amount;

3. The amount won for the last completed game until the next game starts or betting options are modified;

4. The patron options selected for the last completed game until the next game starts or a new selection is made; and

5. A disclaimer stating "Malfunction Voids All Pays" or some equivalent wording approved by the commission. This may be presented as a permanent sign on the terminal.

F. The default game display upon terminal reset shall not be a false winning outcome.

G. Entertaining game features that simulate bonus or free games shall meet the following requirements:

1. The initiation of a bonus or free game shall only be based on the result of the wager placed by the patron on the result of the historical horse race selected for the wager;

2. The bonus or free game shall not require additional money to be wagered by the patron;

3. The entertaining display shall make it clear to the patron that the patron is in bonus mode to avoid the possibility of the patron unknowingly leaving the wagering terminal while in a bonus mode; and

4. If the bonus or free game requires an input from the patron, the terminal shall provide a means to complete the bonus or free game from a touch screen or hard button.

H. Electronic metering displays shall:

1. At all times include all credits or cash available for the patron to wager or cash out unless the terminal is in an error or malfunction state. This information is not required when the patron is viewing a menu or help screen item;

2. Reflect the value of every prize at the end of a wager and add it to the patron's credit meter, except for handpays; and

3. Show the cash value collected by the patron upon a cashout unless the terminal is in an error or malfunction state.

I. A wager is complete when the final transfer to the patron's credit meter takes place or when all credits wagered are lost.

11VAC10-47-130. Required reports for wagering on historical horse races; audit and inspection by the commission.

A. All systems used for pari-mutuel wagering on historical horse races shall provide financial reports for individual approved wager model configurations and total pool amounts for each pool. Reports shall be available at the end of the wagering day or upon request by the commission with information current since the end of the last wagering day. The reports shall include:

1. Current values of each pari-mutuel wagering pool;

2. Total amounts wagered for all pools;

3. Total amounts won by patrons for all pools;

4. Total commission withheld for all pools;

5. Total breakage for all pools, where applicable;

6. Total amount wagered at each terminal;

7. Total amount won by patrons at a terminal;

8. The amount wagered on each mathematical model configuration and the amount won from each mathematical model configuration offered at a terminal;

9. Total amount of each type of financial instrument inserted into a terminal;

10. Total amount cashed out in voucher or handpays at a terminal; and

11. Taxable win events including:

a. Time and date of win;

b. Wagering terminal identification number;

c. Amount wagered resulting in taxable win;

d. Taxable amount won; and

e. Withholding amount.

B. As provided in subdivision 2 of § 59.1-369 of the Code of Virginia, the commission or its authorized representatives may, at any time, conduct an audit or inspection of the financial reports, software, terminals, or other equipment used by a licensee in conducting operations under this chapter.

11VAC10-47-140. Permits required.

All racing officials employed in a satellite facility or at a significant infrastructure facility that offers pari-mutuel wagering on historical horse racing shall apply for permits under the provisions of 11VAC10-50. All participants employed in such facilities shall apply for permits under the provisions of 11VAC10-60.

11VAC10-47-150. Filing of application; fee.

An applicant for a license to offer pari-mutuel wagering on historical horse racing shall apply for a license to conduct the same with the commission at its offices, with the application tendered by hand delivery, certified mail, or recognized overnight courier service with delivery confirmation to the attention of the executive secretary of the commission. An application fee of $1,000 shall be paid for each location where the applicant seeks to offer pari-mutuel wagering on historical horse racing.

11VAC10-47-160. Required information.

An application for a license to conduct pari-mutuel wagering on historical horse racing shall contain the materials and information specified in 11VAC10-40-130 through

11VAC10-40-280. The applicant may reference its materials provided for a satellite facility license or significant infrastructure limited license as part of its application for a license to offer pari-mutuel wagering on historical horse racing. The application shall also contain detailed information on the games to be offered by the applicant, including information demonstrating compliance with the requirements of this chapter. After review of the application, the executive secretary may request the applicant provide additional information, which the applicant shall promptly tender to the commission. Failure to provide information contained in this chapter, or as requested by the commission, shall be grounds for the commission to deny the request for a license to conduct pari-mutuel wagering on historical horse racing.

11VAC10-47-170. Duration of license; transfer.

A license for conducting pari-mutuel wagering on historical horse racing shall be effective for one calendar year or so long as the licensee shall hold a significant infrastructure limited license or satellite facility license for the particular location, whichever is shorter. A licensee may not transfer its license, or assign responsibility for compliance with the conditions of its license, to any party, including, without limitation, a transfer of effective control of the licensee, without commission approval.

11VAC10-47-180. Simulcast operations.

For any satellite facility that offers pari-mutuel wagering on historical horse racing, the following conditions shall apply:

1. A licensee may not reduce, limit, or otherwise alter the nature or extent of its simulcast operations if it offers pari-mutuel wagering on historical horse racing without commission approval.

2. Any licensee must provide the following minimum simulcast offerings:

a. An average daily simulcast schedule of not less than 14 racetracks, unless otherwise approved by the commission for a specific facility;

b. At least two tellers dedicated to simulcast wagering, or one teller for every 200 historical horse racing terminals at the satellite facility, whichever number is greater; and

c. At least 20 self-service tote machines dedicated to simulcast wagering at each satellite facility, unless otherwise approved by the commission for a specific facility.

3. The licensee must promote simulcast wagering inside its satellite facility and make available televisions broadcasting simulcast signal, tote machines, and tellers in a prominent location for use by patrons.

4. The commission may authorize a licensee to provide historical racing terminals at a satellite facility located in a jurisdiction with valid and unexpired referenda on pari-mutuel wagering in accordance with the following limits on the total number of historical racing terminals located in such jurisdiction:

a. Up to 700 terminals in a jurisdiction with a population of 120,000 or greater;

b. Up to 300 terminals in a jurisdiction with a population between 60,000 and 120,000; and

c. Up to 150 terminals in a jurisdiction with a population of 60,000 or less.

The population of a jurisdiction shall be determined based upon the most recent University of Virginia Weldon Cooper Center population estimates.

5. Any such satellite facility must receive all appropriate local government authorizations.

6. In no circumstance shall the total number of historical racing terminals located in a jurisdiction set forth in subdivision 4 of this section exceed 25% of the total limit for such jurisdiction absent formal approval by the relevant city or town council or county board of supervisors of the jurisdiction.

7. In no circumstance shall the combined statewide total number of historical racing terminals located at satellite facilities and significant infrastructure facilities exceed 3,000.

11VAC10-47-190. Significant infrastructure limited licensee operations.

For any significant infrastructure limited licensee that offers pari-mutuel wagering on historical horse racing, the following conditions shall apply:

1. For each calendar year, a licensee in accordance with 11VAC10-20-200 shall submit to the commission a request for live racing days at its significant infrastructure facility that includes at least:

a. Fifteen days of live racing, consisting of not less than six races per day; or

b. One day of live racing, consisting of not less than six races per day, for every 100 historical racing terminals installed at such facility together with any satellite facility owned, operated, controlled, managed, or otherwise affiliated directly or indirectly with such licensee, whichever number shall be greater.

2. In no circumstance shall the total number of historical racing terminals at any significant infrastructure facility exceed 700 terminals.

3. Live racing dates shall be assigned by the commission and conducted in accordance with the procedure in 11VAC10-20-220.

11VAC10-47-200. Responsible gaming.

A. A licensee shall implement a program to promote responsible gaming by its patrons and provide details of the same to the commission. At a minimum, such program shall require:

1. Posting in a conspicuous place in every place where pari-mutuel wagering on historical horse racing is conducted a sign that bears a toll-free number approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers;

2. Providing informational leaflets or other similar materials at the licensee's facilities on the dangers associated with problem gambling;

3. Including in the licensee's promotional and marketing materials information on problem gambling and organizations that provide assistance to problem gamblers;

4. Routine auditing of patron activity to identify patrons who have suffered significant financial losses in repeated visits to the licensee's facilities and providing such patrons with information on organizations that provide assistance to problem gamblers;

5. If the licensee holds a license from the Virginia Alcohol Beverage Control Authority to serve alcoholic beverages, training for employees to identify patrons who have consumed excessive amounts of alcohol to prevent such patrons from continuing to engage in wagering activity while impaired;

6. Partnership with the Virginia Council on Problem Gambling, the National Council on Problem Gambling, or other similar organization to identify and promote best practices for preventing problem gambling;

7. Training for all employees who have contact with patrons as well as administrative and corporate staff members that shall include skills and procedures to respond to situations where a patron exhibits warning signs of a gambling problem or where a patron discloses they may have a gambling problem. Such employees and staff should be trained immediately upon their hiring and retrained and tested regularly; and

8. Ensuring that any request by a patron who wishes to self-exclude from the licensee's facilities is honored by the licensee.

B. A licensee shall report annually to the commission and make a copy available to the public on its efforts to meet subsection A of this section, its efforts to identify problem gamblers, and steps taken to:

1. Prevent such individuals from continuing to engage in pari-mutuel wagering on historical horse racing; and

2. Provide assistance to these individuals to address problem gambling activity.

VA.R. Doc. No. R19-5684; Filed July 11, 2019, 3:51 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 17 of the Code of Virginia regarding the promulgation of technical regulations governing actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11VAC10-120. Claiming Races (amending 11VAC10-120-50).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: August 5, 2019.

Agency Contact: Kimberly Mackey, Regulatory Coordinator, Virginia Racing Commission, 5707 Huntsman Road, Suite 201-B, Richmond, VA 23250, telephone (804) 966-7406, or email kimberly.mackey@vrc.virginia.gov.

Summary:

The amendment requires the trainer of a claimed horse to provide the new trainer of the claimed horse with injection records for the previous 30 days. This requirement is in the Association of Racing Commissioners International Model Rules.

11VAC10-120-50. Claiming procedure.

A claim may be filed on a horse programmed to race by properly completing a claim slip, including ~~but not limited to~~ the correct spelling of the horse's name, the date and the race number, sealing the claim slip in an envelope, and depositing the envelope in a locked claims box. The following provisions shall apply to the claiming of a horse:

1. The licensee shall provide claim slips, claim envelopes, and a locked claim box to secure filed claims;

2. The claim slip, enclosed in a sealed envelope, must be deposited in a locked claim box at least 15 minutes before post time of the race for which the claim is filed;

3. The licensee shall provide a clock, and before the sealed envelope is deposited in the locked claim box, the time of day shall be stamped upon the envelope;

4. No money or its equivalent shall be put in the claim box;

5. The person filing the claim must have sufficient funds on deposit with the horsemen's bookkeeper or licensee in not less than the amount of the designated price and applicable sales taxes;

6. The claims clerk shall inform the stewards of a claim filed for a horse and of multiple claims on a horse;

7. The claims clerk shall ascertain that the claim slip and envelope are properly complete;

8. The claims clerk shall ascertain that the person is eligible to claim a horse and inform the stewards immediately of any doubts of the person's eligibility;

9. The claims clerk shall ascertain that there are sufficient funds on deposit with the horsemen's bookkeeper or licensee of not less than the amount of the claim and applicable sales taxes;

10. If more than one valid claim is filed for a horse, then title to the horse shall be determined by lot under the supervision of the stewards or their representative;

11. A claimed horse shall race in the interest of and for the account of the owner from whom the horse was claimed;

12. Title to a claimed horse shall vest in the successful claimant at the time the horse is deemed a starter whether the horse is dead or alive, sound or unsound, or injured in the race or after the race;

13. Upon a successful claim the stewards shall issue a transfer authorization of the horse from the original owner to the claimant. Copies of the transfer authorization shall be maintained by the stewards and the racing secretary. Upon notification by the stewards the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, along with applicable taxes and transfer fees, and shall immediately credit the original owner's account with the claiming price;

14. In harness racing, the successful claimant of a horse programmed to start may, at his option, acquire ownership of a claimed horse even though such claimed horse was scratched and did not start in the claiming race from which it was scratched. The successful claimant must exercise his option by 9 a.m. of the day following the claiming race to which the horse programmed and scratched. No horse may be claimed from a claiming race unless the race is contested;

15. A horse that has been claimed shall be delivered to the new owner at the conclusion of the race either at the paddock or at the detention barn, after the completion of any post-race testing;

16. The claimant shall present the former owner with written authorization of the claim from the racing secretary;

17. A positive test result for any prohibited drug is grounds for voiding the claim;

18. The new owner may request that the horse be tested for equine infectious anemia, by taking the horse immediately following the race to the detention barn where a blood sample will be drawn;

19. A positive test result for equine infectious anemia is grounds for voiding a claim;

20. The new owner shall be responsible for filing the change of ownership with the appropriate breed registry;

21. Despite any designation of sex or age of a horse appearing in the daily program or other publication, the person making the claim shall be solely responsible for determining the sex or age of the horse before filing a claim for the horse; ~~and~~

22. Officials and employees of the licensee shall not provide any information as to the filing of the claim until after the race has been run, except as necessary for processing of the claim; and

23. If a horse is successfully claimed by a new owner, the trainer of record at the time of that claiming race must provide that horse's complete corticosteroid and intra-articular injection records for the last 30 days, which shall include the date of the injection, name of the veterinarian performing the injection, articular spaces or structures injected, medication or biologicals used to inject each articular space, and dose in milligrams of each corticosteroid used. Such records shall be completed by the treating veterinarian and be provided to the new trainer within 48 hours of the transfer of the horse.

VA.R. Doc. No. R19-6068; Filed July 15, 2019, 11:54 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 23 of the Code of Virginia when promulgating regulations pertaining to the administration of medication or other substances foreign to the natural horse.

Title of Regulation: **11VAC10-180. Medication (amending 11VAC10-180-80).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: August 5, 2019.

Agency Contact: Kimberly Mackey, Regulatory Coordinator, Virginia Racing Commission, 5707 Huntsman Road, Suite 201-B, Richmond, VA 23250, telephone (804) 966-7406, or email kimberly.mackey@vrc.virginia.gov.

Summary:

The amendment lowers the allowable dosage of furosemide on race day to 6.0 ml or 300 mg.

11VAC10-180-80. Permitted race day substances.

A. Generally. Furosemide shall be the only medication permitted to be administered on race day and only to those horses eligible for furosemide treatment as designated by the bleeder list and furosemide list described in subsection B of this section.

B. Bleeder medications. By this regulation, the Virginia Racing Commission specifically permits the use of bleeder medications in only those horses that:

1. Have been placed on the bleeders list by the stewards;

2. Have raced on furosemide in another jurisdiction on the last previous start in a pari-mutuel race, as indicated by the past performance chart or by verification by the commission veterinarian from that racing jurisdiction, or both; or

3. Have been placed on the furosemide list by the stewards. A horse is eligible for inclusion on the furosemide list if the licensed trainer and a licensed veterinarian determine it is in the horse's best interest to race with furosemide, and the prescribed commission form is presented to the commission veterinarian prior to the close of entries for the horse's race. A horse placed on the furosemide list without demonstrating an episode of exercise-induced pulmonary hemorrhage is not restricted from racing for the usual recovery period described in 11VAC10-180-85 D. However, any future episode of exercise-induced pulmonary hemorrhage shall be considered a reoccurrence of bleeding for the purpose of determining restrictions from racing, as provided in this chapter.

a. A trainer or owner may discontinue the administration of furosemide to his racehorse only with the permission of the stewards. The request must be submitted in writing on forms prescribed by the commission and prior to entering the horse in a race.

b. A horse removed from the furosemide list may not be placed back on the furosemide list for a period of 60 calendar days unless the horse suffers an external bleeding incident witnessed by the commission veterinarian or his designee. In such case, the horse shall be placed on the bleeders list as though that bleeding incident was a reoccurrence of bleeding and subjected to a minimum 30-day or 90-day restriction for recovery as provided in this chapter.

C. Furosemide.

1. Procedures for usage. The use of furosemide on race day is permitted by the commission only in horses eligible to receive bleeder medications and under the following circumstances:

a. Furosemide shall be administered by a single dose intravenously no less than four hours, or three hours for a ship-in meet, prior to post time within the enclosure of the horse race facility by a veterinarian who shall be specifically designated by the commission to administer furosemide.

b. The furosemide dosage administered shall not exceed ~~10~~ 6.0 ml ~~(500~~ (300 mg) and shall not be less than 3.0 ml (150 mg). At a ship-in meet, the minimum dosage shall be not less than 2.0 ml (100 mg).

c. The veterinarian administering the furosemide shall be an employee of the commission or otherwise observed by an employee of the commission who shall deliver a furosemide treatment report to the commission no later than two hours prior to post time. The furosemide treatment report shall contain the following:

(1) The trainer's name, date, horse's name, and horse's identification number;

(2) The time furosemide was administered to the horse;

(3) The dosage level administered for this race;

(4) The barn and stall number; and

(5) The signature of the veterinarian, who is a permit holder and is specifically designated by the commission to administer furosemide.

2. Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of serum or plasma and urine specific gravity measuring 1.010 or lower. If a urine sample is unavailable for specific gravity measurement, serum or plasma concentration may not exceed 100 nanograms per milliliter. Furosemide must be present in the serum or plasma or urine of any horse that has been designated in the program as being treated with furosemide.

D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall issue a written reprimand to the trainer and to the practicing veterinarian, if applicable.

2. For the second violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall fine the trainer, practicing veterinarian, or both an amount not to exceed $500.

3. For the third violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section) within a 365-day period, the stewards shall suspend or fine the trainer, practicing veterinarian, or both not to exceed $1,000 and 15 days.

4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which

furosemide is permitted by the commission, regardless of whether or not the same horse is involved.

E. Adjunct bleeder medications. The Virginia Racing Commission prohibits the use of bleeder adjunct medication on race day.

F. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first start while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

G. Discontinue use of furosemide. A trainer or owner may discontinue the administration of furosemide to his horse only with the permission of the stewards and prior to entering the horse in a race.

VA.R. Doc. No. R19-6066; Filed July 15, 2019, 11:40 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Proposed Regulation

Title of Regulation: **12VAC5-550. Board of Health Regulations Governing Vital Records (amending 12VAC5-550-320).**

Statutory Authority: §§ 32.1-12 and 32.1-250 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 4, 2019.

Agency Contact: Janet Rainey, State Registrar, Virginia Department of Health, 2001 Maywill Street, Richmond, VA 23230, telephone (804) 662-6200, FAX (804) 662-6256, or email janet.rainey@vdh.virginia.gov.

Basis: The regulation is promulgated under the authority of §§ 32.1-12 and 32.17-250 of the Code of Virginia. Section 32.1-12 grants the State Board of Health the legal authority to make, adopt, promulgate, and enforce such regulations necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by it. Section 32.1-250 of the Code of Virginia requires the State Board of Health to install, maintain, and operate the only system of vital records throughout the Commonwealth.

Purpose: This regulatory action is essential to ensure the accuracy of the Board of Health Regulations Governing Vital Records (12VAC5-550). Ensuring the integrity of the Commonwealth's system of vital records is essential to the welfare of the citizens of the Commonwealth. The purpose of the proposed amendments is to conform the requirements of this section to the provisions of the Code of Virginia.

Substance: The proposed amendments to 12VAC5-550-320 revise the requirements to amend the birth certificate of a person who has had a medical procedure to change sex. The proposed amendments allow that a new certificate of birth may be prepared by the State Registrar for a person born in the Commonwealth upon (i) receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure, and (ii) request of such person. The amendments conform the regulation to the Code of Virginia.

Issues: The primary advantage to the public, the agency, and the Commonwealth is to enhance the integrity of the regulations governing vital records and in turn the system of vital records within the Commonwealth. There are no known disadvantages to the public, the regulated entities, business entities, or the Commonwealth.

Small Business Impact Review Report of Findings: This proposed regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Health (Board) proposes to amend language concerning how to have a new certificate of birth issued to reflect a change in gender.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The current language in the regulation concerning the required process to have a new certificate of birth issued to reflect a change in gender conflicts with the Code of Virginia (Code). The Board proposes to amend the language to match the requirements in the Code. Since when the Code and regulatory language conflict, the Code presides, the proposed amendments to the regulation would have no impact in practice beyond reducing the likelihood that readers of the regulation would be misled concerning the presiding requirements.

Businesses and Entities Affected. Beyond potentially reducing confusion among readers of the regulation, the proposed language amendments do not affect any businesses or entities.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

Costs and Other Effects. The proposed amendments do not affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

Agency's Response to Economic Impact Analysis: The Virginia Department of Health concurs with the economic impact analysis.

Summary:

The proposed amendments provide that upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure and request of that individual, the individual may be issued a new birth certificate by the State Registrar. The amendments conform the regulation to the Code of Virginia.

12VAC5-550-320. Change of sex.

Except as provided in subdivision 3 of 12VAC5-550-450, upon ~~presentation~~ receipt of ~~acceptable evidence (preoperative diagnosis, postoperative diagnosis and description of procedure) and a notarized affidavit from the physician performing the surgery,~~ a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure and upon request of such person, a new certificate of birth may be prepared by the State Registrar for a person born in this Commonwealth ~~whose sex has been changed by surgical gender reassignment procedure. A certified copy of the court order changing the name of the registrant as well as designating the sex of the registrant must be in the possession of the State Registrar together with a request that a new certificate be prepared~~.

VA.R. Doc. No. R13-3634; Filed July 10, 2019, 9:45 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Emergency Regulation

Titles of Regulations: **12VAC30-10. State Plan under Title XIX of the Social Security Act Medical Assistance Program - General Provisions (amending 12VAC30-10-10, 12VAC30-10-60, 12VAC30-10-410; repealing 12VAC30-10-20).**

12VAC30-20. Administration of Medical Assistance Services (amending 12VAC30-20-205, 12VAC30-20-210).

12VAC30-30. Groups Covered and Agencies Responsible for Eligibility Determination (amending 12VAC30-30-10).

12VAC30-40. Eligibility Conditions and Requirements (adding 12VAC30-40-348).

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Dates: September 19, 2019, through March 18, 2021.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, 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.

Preamble:

Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Chapter 2, Item 303 SS 4 a of the 2018 Acts of Assembly directs the Department of Medical Assistance Services (DMAS) to "...amend the State Plan for Medical Assistance … to implement coverage for newly eligible individuals…" Item 303 SS 4 f states that DMAS "...shall have the authority to promulgate emergency regulations to implement these changes within 280 days or less …"

The amendments incorporate changes made to the State Plan for Medical Assistance to implement Medicaid expansion, including (i) establishing the adult eligibility group as a group eligible for Medicaid coverage, (ii) updating the Health Insurance Premium Payment (HIPP)

program and HIPP for Kids program, (iii) making expansion-related changes to the federal medical assistance percentage, (iv) updating the federal medical assistance percentage for expenditures associated with new enrollees, and (v) allowing individuals who receive Supplemental Nutrition Assistance Program benefits to be moved into Medicaid coverage on an expedited basis.

Part I
Single State Agency Organization

12VAC30-10-10. Designation and authority.

A. The Department of Medical Assistance Services (DMAS) is the single state agency designated to administer or supervise the administration of the Medicaid program under Title XIX of the Social Security Act. (All references in this plan to "the Medicaid agency" mean the agency named in this subsection.)

12VAC30-20-10 is a certification signed by the State Attorney General identifying the single state agency and citing the legal authority under which it administers or supervises administration of the program.

B. The entire plan under Title XIX is administered or supervised by the state agency named in subsection A of this section.

C. No waivers of the single state agency requirements have ever been granted.

D. ~~Determinations of eligibility for Medicaid under this plan are made by the agency or agencies specified in 12VAC30-30-10. There is a written agreement between the agency named in subsection A of this section and other agencies making such determinations for specific groups covered under this plan. The agreement defines the relationships and respective responsibilities of the agencies.~~ Eligibility determinations (including any delegations).

1. The entities that conduct determinations of eligibility for families, adults, and individuals younger than 21 years of age are DMAS, the single state agency under Title IV-A (TANF), and the Exchange, which is a government agency established under § 1311(b)(1) or 1321(c)(1) of the Patient Protection and Affordable Care Act (42 USC § 18001).

2. The entities that conduct determinations of eligibility based on age, blindness, and disability are DMAS and the single state agency under Title IV-A (TANF).

3. DMAS makes the following assurances with regard to eligibility determinations:

a. DMAS is responsible for all Medicaid eligibility determinations.

b. There is a written agreement between DMAS, the Exchange, and the single state agency under Title IV-A. The Exchange and the single state agency under Title IV-A have been delegated authority to determine eligibility for Medicaid eligibility in compliance with 42 CFR 431.10(d).

c. DMAS does not delegate authority to make eligibility determinations to entities other than government entities that maintain personnel standards on a merit basis.

d. The delegated entity is capable of performing the delegated functions.

E. All other provisions of this plan are administered by the Medicaid agency except for those functions for which final authority has been granted to a Professional Standards Review Organization under Title XI of the Act.

F. All other requirements of 42 CFR 431.10 are met.

12VAC30-10-20. ~~Organization for administration.~~ (Repealed.)

~~A. 12VAC30-20-20 contains a description of the organization and functions of the Medicaid agency and an organization chart of the agency.~~

~~B. Within the state agency, the Department of Medical Assistance Services has been designated as the medical assistance unit. 12VAC30-20-30 contains a description of the organization and functions of the medical assistance unit and an organization chart of the unit.~~

~~C. 12VAC30-20-40 contains a description of the kinds and numbers of professional medical personnel and supporting staff used in the administration of the plan and their responsibilities.~~

~~D. Eligibility determinations are made by state or local staff of an agency other than the agency named in 12VAC30-10-10 A.~~

Part II
Coverage and Eligibility

12VAC30-10-60. Application; determination of eligibility and furnishing Medicaid.

A. The Medicaid agency meets all requirements of 42 CFR Part 435, Subpart J for processing applications, determining eligibility and furnishing Medicaid.

B. 1. Except as provided in subdivisions 2 and 3 of this subsection, individuals are entitled to Medicaid services under the plan during the three months preceding the month of application, if they were, or on application would have been, eligible. The effective date of prospective and retroactive eligibility is specified in 12VAC30-40-10.

2. For individuals who are eligible for Medicaid cost sharing expenses as qualified Medicare beneficiaries under § 1902(a)(10)(E)(i) of the Social Security Act (the Act), coverage is available for services furnished after the end of the month in which the individual is first determined to be

a qualified Medicare beneficiary. 12VAC30-40-10 specifies the requirements for determination of eligibility for this group.

3. Pregnant women are not entitled to ambulatory prenatal care under the plan during a presumptive eligibility in accordance with § 1920 of the Act. 12VAC30-40-10 specifies the requirements for determination of eligibility of this group.

C. The Medicaid agency elects to enter into a risk contract with ~~an HMO~~ a health maintenance organization (HMO) that is qualified under Title XIII of the Public Health Service Act (42 USC § 201 et seq.) or is provisionally qualified as an HMO pursuant to § 1903(m)(3) of the Social Security Act (42 USC § 1396(m)).

The Medicaid agency elects to enter into a risk contract with an HMO that is not federally qualified, but meets the requirements of 42 CFR 434.20(c) and is defined in 12VAC30-20-60.

D. The Medicaid agency has procedures to take applications, assist applicants, and perform initial processing of applications from those low income pregnant women, infants, and children ~~under age~~ younger than 19 years of age, described in § 1902(a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), and (a)(10)(A)(ii)(IX) at locations other than those used by the Title IV-A program including ~~FQHCs~~ federally qualified health centers and disproportionate share hospitals. Such application forms do not include the ~~ADFC~~ Aid for Dependent Families and Children form except as permitted by ~~HCFA~~ the Centers for Medicare and Medicaid Services instructions.

E. The Commonwealth elects the option to use income determined by the following means-tested public benefits program to support Medicaid eligibility determinations: Supplemental Nutrition Assistance Program (SNAP).

1. In electing this option, the Commonwealth assures that it:

a. Verifies citizenship and noncitizen status consistent with Medicaid statutory and regulatory requirements in § 1137 of the Social Security Act, 42 CFR 435.406, and 42 CFR 435.407.

b. Complies with Medicaid reporting requirements with respect to participants enrolled through this strategy.

c. Provides applicants with program information required under 42 CFR 435.905, such as information about available services and the rights and responsibilities of applicants and beneficiaries.

d. Has procedures to ensure that eligible individuals are enrolled in the appropriate Medicaid eligibility group.

e. Has procedures to ensure that eligible American Indians or Alaska Natives enrolled through this strategy are exempt from cost sharing or premiums, consistent with § 1916A(b)(3) of the Social Security Act.

f. Has post-enrollment procedures to ensure assignment of rights to third-party benefits and to secure cooperation in establishing medical support as appropriate per 42 CFR 435.610.

2. The Commonwealth will use gross income determined by SNAP to support Medicaid eligibility determinations for all modified adjusted gross income (MAGI) based Medicaid eligibility groups at initial application. In applying this option, all of the following conditions must be met:

a. All members of the SNAP household are eligible for SNAP, other than for SNAP transitional benefits.

b. No one in the SNAP household has any type of income that is excluded in determining gross income for purposes of eligibility for SNAP, but would be included in MAGI-based income.

c. No one in the SNAP household is part of a tax household that includes an individual who lives outside the home.

d. The SNAP household consists of individuals who live alone, parents living with their children, or married couples (with or without children), with the result that they will also be considered a household under Medicaid rules and either:

(1) There are no other members present who would not be considered to be part of the household used for purposes of determining MAGI-based Medicaid eligibility; or

(2) Other members are present in the household, but the total household income is below the applicable Medicaid standard for a household of one.

e. Households with self-employment income are excluded from this option. The Commonwealth uses a methodology for treating self-employment income that differs from the standard SNAP methodology. The treatment of income from self-employment is found at M0440 100 B 3 of the Virginia Medical Assistance Eligibility Manual located at http://www.dmas.virginia.gov/#/assistance.

f. None of the household's income is excluded from gross income as payment of child support for children living outside of the household. The Commonwealth does not exclude payment of child support for children from gross income when determining eligibility for SNAP.

g. The Commonwealth obtains all information necessary for a Medicaid eligibility determination that is not contained in the case record for SNAP. If available,

electronic data sources are consulted before paper documentation is requested.

3. Collection of information to determine eligibility.

a. The Commonwealth collects information to ensure that no one in the SNAP household is part of a tax household that includes an individual who lives outside the home:

(1) Information is available through electronic data sources. Information is collected on the application or renewal form for the means-tested program.

(2) The Commonwealth agency provides a form to the individual to complete and return.

b. The Commonwealth identifies individuals who have income that is counted in determining household income using MAGI-based methodologies but is not included in SNAP gross income by providing a form for the individual to complete and return. This includes income above the applicable tax filing threshold received through an AmeriCorps Education Award income from a minor dependent child.

c. The Commonwealth obtains a signature whether physical, electronic, or telephonic authorizing a determination of Medicaid eligibility as required under 42 CFR 435.907(f). The Commonwealth allows the authorization form to be completed on paper, by telephone, and electronically.

12VAC30-10-410. Hearings for applicants and recipients.

A. The Medicaid agency has a system of hearings that meets all the requirements of 42 CFR 431, Subpart E.

~~No termination of coverage under § 1925 shall be effective earlier than 10 days after the date of mailing of the notice required by § 1925(b)(3)(B).~~ The Medicaid agency is responsible for all Medicaid fair hearings.

B. The entities that conduct fair hearings with respect to eligibility based on applicable modified adjusted gross income (MAGI) are the Department of Medical Assistance Services (DMAS) and the Health and Human Services appeals entity within the Exchange.

C. The Commonwealth assures the following with respect to delegations of authority to conduct fair hearings regarding eligibility based on MAGI:

1. There is a written agreement between DMAS and the Exchange appeals entity that has been delegated authority to conduct Medicaid fair hearings in compliance with 42 CFR 431.10(d).

2. When authority is delegated to the Exchange appeals entity, individuals who have requested a fair hearing are given the option to have their hearing conducted instead by DMAS.

3. DMAS does not delegate authority to conduct fair hearings to entities other than government agencies that maintain personnel standards on a merit basis.

4. The delegated entity is capable of performing the delegated function.

D. All fair hearings not related to an eligibility determination based on MAGI are conducted at DMAS.

NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (12VAC30-10)

SNAP Information Collection Form (undated, filed July 23, 2019)

12VAC30-20-205. Health Insurance Premium Payment ~~(HIPP)~~ for Kids.

A. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

"Case" means all family members who are eligible for coverage under the ~~group health plan~~ qualified employer-sponsored insurance plan and who are eligible for Medicaid.

"Code" means the Code of Virginia.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DSS" means the Department of Social Services consistent with Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 of the Code of Virginia.

"Family member" means ~~individuals~~ an individual in the household, who is not a parent and who ~~are~~ is related by blood, marriage, ~~or~~ adoption, or legal custody.

"Group health plan" means a plan which meets § 5000(b)(1) of the Internal Revenue Code of 1986 and includes continuation coverage pursuant to Title XXII of the Public Health Service Act (42 USC § 201 et seq.), § 4980B of the Internal Revenue Code of 1986, or Title VI of the Employee Retirement Income Security Act of 1974 (42 USC § 200I et seq.). Section 5000(b)(1) of the Internal Revenue Code provides that a group health plan is a plan, including a self-insured plan, of, or contributed to by, an employer (including a self-insured person) or employee association to provide health care (directly or otherwise) to the employees, former

employees, or the families of such employees or former employees, or the employer.

"High deductible health plan" means a plan as defined in § 223(c)(2) of the Internal Revenue Code of 1986, without regard to whether the plan is purchased in conjunction with a health savings account (as defined under § 223(d) of the Internal Revenue Code of 1986).

"HIPP" means the Health Insurance Premium Payment Program administered by DMAS consistent with § 1906 of the ~~Act~~ Social Security Act (42 USC § 301 et seq.) (the Act).

"HIPP for Kids" means the Health Insurance Premium Payment Program administered by DMAS consistent with § 1906A of the Act.

"Member" means a person who is eligible for Medicaid as determined by DMAS~~,~~ or a DMAS designated agent, ~~or~~ including the Department of Social Services.

"Network provider" means a provider who is enrolled with a DMAS contracted managed care organization (MCO) as a provider and meets the requirement for an expedited enrollment as a fee-for-service (FFS) Medicaid provider for payment and billing purposes.

"Parent" means the biological or adoptive parent ~~or parents~~, or the biological or adoptive parent and the stepparent, living in the home with the Medicaid-eligible child. The health insurance policyholder shall be a parent as defined ~~herein~~ in this section.

"Payee" means the insured employee who is the policy holder of the qualified employer-sponsored insurance plan who is paid the HIPP or HIPP for Kids premium and cost-sharing reimbursement.

"Premium" means the fixed cost of participation in the ~~group health plan~~ qualified employer-sponsored insurance plan, which cost may be shared by the employer and employee or paid in full by either party.

"Premium assistance subsidy" means the amount that DMAS will pay of the employee's cost of participating in the qualified employer-sponsored ~~coverage~~ insurance plan to cover the Medicaid eligible member ~~or members under age~~ younger than 19 years of age if DMAS determines it is cost effective to do so.

"Qualified employer-sponsored ~~coverage~~ insurance" as defined in § 2105(c)(10)(B) of the Social Security Act means a group health plan or health insurance coverage offered through an employer:

1. That qualifies as creditable coverage as a group health plan under § 2701(c)(1) of the Public Health Service Act;

2. For which the employer contribution toward any premium for such coverage is at least 40%; and

3. That is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of ~~paragraph (3)(A)(ii) of § 105(h)~~ § 105(h)(3)(A)(ii) of the Internal Revenue Code of 1986 ~~(but determined~~ without regard to ~~clause (i) of subparagraph (B) of such paragraph)~~ § 105(h)(3)(B)(i).

"State Plan" means the State Plan for Medical Assistance for the Commonwealth of Virginia.

B. Program purpose. The purpose of the HIPP for Kids program shall be to:

1. Enroll members who are eligible for coverage under a qualified employer-sponsored ~~coverage~~ insurance plan.

2. Provide premium assistance subsidy for payment of the employee share of the premiums and other cost-sharing obligations for the ~~Medicaid eligible~~ Medicaid-eligible child ~~under age~~ younger than 19 years of age. In addition, to provide cost sharing for the child's ~~noneligible~~ parent who is not Medicaid eligible for items and services covered under the qualified employer-sponsored ~~coverage~~ insurance that are also covered services under the State Plan. There is no cost sharing for parents for services not covered by the qualified employer-sponsored ~~coverage~~ insurance.

3. Treat coverage under such ~~employer group health plan~~ qualified employer-sponsored insurance plan as a ~~third party~~ third-party liability consistent with § ~~1902(a)(25)~~ 1906 of the Social Security Act.

C. Cost effectiveness methodology.

1. DMAS shall evaluate the member to determine the appropriate managed care organization (MCO) capitation rate to be used. The capitation rate will be determined based on aid category, nursing facility or waiver eligibility, age, gender, and region.

2. DMAS shall adjust the capitation rate to exclude Medicaid services that are not available through commercial group health insurance policies. This requires that the capitation rate be adjusted to exclude services, including nursing facility and long-term services and supports provided in the Commonwealth Coordinated Care (CCC) Plus program as well as community mental health services and nonemergency transportation services available in CCC Plus and Medallion.

3. DMAS shall adjust the reduced capitation rate from subdivision 2 of this subsection to reflect the higher prices employer plans pay. The Virginia price factor shall be based on the national factor of 1.3 that is published by the Centers for Medicare and Medicaid Services.

4. The qualified employer-sponsored insurance plan cost for the member shall be increased to reflect the amount of coinsurance and other member cost sharing typically

imposed on HIPP members and paid by DMAS. Such amount shall be determined by averaging the aggregate amount of such expenditures by DMAS in the most recently completed fiscal year by the number of HIPP members covered during the fiscal year.

5. The qualified employer-sponsored insurance plan cost determined in subdivision 4 of this subsection shall be increased to reflect the DMAS administrative expenses directly related to the HIPP program. This additional cost is determined based on the average total monthly compensation paid to each HIPP analyst employed by DMAS and divided by the anticipated caseload.

6. The cost effectiveness shall be affirmed if the adjusted capitation rate from subdivision 3 of this subsection equals or exceeds the adjusted qualified employer-sponsored insurance plan cost from subdivision 5 of this subsection.

~~C.~~ D. Member eligibility.

1. DMAS shall obtain specific information on qualified employer-sponsored ~~coverage~~ insurance available to the members in the case including~~, but not limited to~~, the effective date of coverage, the services covered by the plan, the deductibles and copayments required by the plan, and the amount of the premium paid by the employer and employee. Coverage that is not comprehensive shall be denied premium assistance. A qualified employer-sponsored insurance plan must provide the following services in order to be considered comprehensive:

a. Physician services;

b. Inpatient and outpatient hospitalization;

c. Outpatient labs, shots, and x-rays; and

d. Prescription drugs.

2. All ~~Medicaid eligible~~ Medicaid-eligible family members ~~under the age of~~ younger than 19 years of age who are eligible for coverage under the qualified employer-sponsored ~~coverage~~ insurance shall be eligible for consideration for HIPP for Kids except the following:

~~1.~~ a. The member who is Medicaid eligible due to "spenddown"; or

~~2.~~ b. The member who is currently enrolled in the qualified employer-sponsored ~~coverage~~ insurance and is only retroactively eligible for Medicaid.

~~D.~~ E. Application required. A completed HIPP for Kids application must be submitted to DMAS to be evaluated for program eligibility. The HIPP for Kids application consists of the forms prescribed by DMAS and any necessary information as required by the program to evaluate eligibility and determine if the plan meets the criteria for qualified employer-sponsored ~~coverage~~ insurance.

~~E.~~ F. Exceptions. The term "qualified employer-sponsored ~~coverage"~~ insurance" does not include coverage consisting of:

1. Benefits provided under a health flexible spending arrangement (as defined in § 106(c)(2) of the Internal Revenue Code of 1986) ~~or~~;

2. A high deductible health plan (as defined in § 223(c)(2) of the Internal Revenue Code of 1986), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under § 223(d) of the Internal Revenue Code of 1986).~~;~~ or

3. For self-employed individuals, qualified employer-sponsored ~~coverage~~ insurance obtained through self-employment activities shall not meet the program requirements unless the self-employment activities are the family's primary source of income and the insurance meets the requirements of the definition of qualified employer-sponsored ~~coverage~~ insurance in subsection A of this section. Family for this purpose includes family by blood, marriage, or adoption.

~~F.~~ G. Payments. When DMAS determines that a qualified employer-sponsored ~~coverage~~ insurance plan is eligible and other eligibility requirements have been met, DMAS shall provide for the payment of premium assistance subsidy and other cost-sharing obligations for items and services otherwise covered under the State Plan, except for the nominal cost-sharing amounts permitted under § 1916 of the Social Security Act.

1. Effective date of premium assistance subsidy. Payment of premium assistance subsidies and other cost-sharing obligations shall become effective on ~~the first day of the month in which DMAS receives a complete HIPP application or~~ the first day of the month ~~in~~ following an approved application for which qualified employer-sponsored ~~coverage~~ insurance becomes effective~~, whichever is later~~. Payments shall be made to ~~either the employer, the insurance company, or~~ the individual who is carrying the ~~group health plan~~ qualified employer-sponsored insurance plan coverage.

2. Payments for deductibles, coinsurances, and other cost-sharing obligations.

a. Medicaid eligible children ~~under age~~ younger than 19 years of age pursuant to § 1906A of the Act. The Medicaid agency pays all premiums, deductibles, coinsurance, and other cost-sharing obligations for items and services covered under the State Plan, as specified in the qualified employer-sponsored ~~coverage~~ insurance, without regard to limitations specified in § 1916 or ~~§~~ 1916A of the Act, for eligible individuals ~~under age~~ younger than 19 years of age who have access to and elect to enroll in such coverage. The eligible individual is entitled to services covered by the State Plan that are not

included in the qualified employer-sponsored ~~coverage~~ insurance.

b. In order to receive reimbursement, the individual shall submit to DMAS an explanation of benefits or similar documentation from the insurance company or doctor's office showing the date of service (DOS), that the expense is the responsibility of the member or parent, that the expense was paid prior to the submission of the request, and sufficient identification codes for the DOS to enable DMAS to determine if the service is reimbursable before applying the remaining cost sharing criteria.

c. Reimbursement for cost sharing shall be processed on a quarterly basis.

~~b.~~ d. Ineligible family members. When coverage for Medicaid-eligible family members ~~under age~~ younger than 19 years of age is not possible unless ~~an ineligible~~ a parent who is not Medicaid eligible enrolls in qualified employer-sponsored health insurance, the Medicaid agency pays premiums ~~only~~ for enrollment of the ~~ineligible~~ parent who is not Medicaid eligible and~~, at the parent's option,~~ other family members who are eligible for coverage under the qualified employer-sponsored ~~coverage~~ insurance. In addition, the agency provides cost sharing for the ~~child's ineligible~~ parent who is not Medicaid eligible for items and services covered under the qualified employer-sponsored ~~coverage~~ insurance that are also covered services under the State Plan. There is no ~~cost sharing~~ cost sharing for ~~ineligible~~ parents who are not Medicaid eligible for items and services not covered by the qualified employer-sponsored ~~coverage~~ insurance.

3. Documentation required for premium assistance subsidy reimbursement. A ~~person~~ payee to whom DMAS is paying a qualified employer-sponsored ~~coverage~~ insurance premium assistance subsidy shall, as a condition of receiving such payment, provide documentation as prescribed by DMAS of the payment of the ~~employer group health plan~~ qualified employer-sponsored insurance plan premium, as well as payment of coinsurances, copayments, and deductibles for services received.

H. Cost-sharing wrap.

1. Premium assistance enrollment will be voluntary. Individuals enrolled in the Commonwealth's Health Insurance Premium Payment (HIPP) program are afforded the same member protections provided to all other Medicaid enrollees. Cost sharing shall only be charged to Medicaid members as permitted under §§ 1916 and 1916A of the Social Security Act. Cost sharing shall not exceed 5.0% of household income.

2. The Commonwealth will provide a cost-sharing wrap to any cost-sharing amounts of a Medicaid covered service that exceeds the cost-sharing limits described in the State Plan, regardless of whether individuals enrolled in a HIPP program receive care from a Medicaid participating provider or a nonparticipating provider.

3. To effectuate the cost-sharing wrap, the Commonwealth will encourage nonparticipating providers to enroll by conducting targeted outreach to inform nonparticipating Medicaid providers on how to enroll in Medicaid for the purposes of receiving payment from the Commonwealth for cost-sharing amounts that exceed the Medicaid permissible limits.

4. The Commonwealth will inform members regarding options available when the member obtains care from a nonparticipating provider, including, as applicable, reimbursement for out-of-pocket, cost-sharing costs from this provider.

5. In order to receive reimbursement, the individual shall submit to DMAS an explanation of benefits or similar documentation from the insurance company or doctor's office showing DOS, that the expense is the responsibility of the member or parent, that the expense was paid prior to the submission of the request, and sufficient identification codes for the DOS to enable DMAS to determine if the service is reimbursable before applying the remaining cost-sharing criteria.

6. Reimbursement for cost-sharing shall be processed on a quarterly basis.

~~G.~~ I. Program participation requirements. Participants must comply with program requirements as prescribed by DMAS for continued enrollment in HIPP for Kids. Failure to comply with the following may result in termination from the program:

1. Submission of documentation of any changes to the qualified employer-sponsored insurance plan, to include any changes to the employee share of the premium expense, within ~~specified time frame in accordance with DMAS established policy~~ 10 days of receipt of notice of the change.

2. ~~Report~~ Any household changes ~~in the qualified employer sponsored coverage~~, including income and individuals in the household, must be reported within 10 days ~~of the family's receipt of notice~~ of the change.

3. Completion of annual redetermination.

4. Completion of consent forms. Participants may be required to complete a consent form to release information necessary for HIPP for Kids participation and program requirements as required by DMAS.

~~H.~~ J. HIPP for Kids redetermination. DMAS shall redetermine the eligibility of the qualified employer-sponsored ~~coverage~~ insurance periodically, at least every 12

months. DMAS shall also redetermine eligibility when changes occur with the ~~group health plan~~ qualified employer-sponsored insurance plan information that was used in determining HIPP for Kids eligibility.

~~I.~~ K. Program termination. Participation in the HIPP for Kids program may be terminated for failure to comply or meet program requirements. Termination will be effective the last day of the month in which advance notice has been given (consistent with federal ~~regulations)~~ requirements at 42 CFR 431.211).

1. Participation may be terminated for failure to meet program requirements including~~, but not limited to,~~ the following:

a. Failure to submit documentation of payment of premiums;

b. Failure to provide information required for reevaluation of the qualified employer-sponsored ~~coverage~~ insurance; ~~(noncompliance);~~

c. Loss of Medicaid eligibility for all household members;

d. Medicaid household member no longer covered by the qualified employer-sponsored ~~coverage~~ insurance;

e. Medicaid-eligible child turns ~~age~~ 19 years of age; or

f. Employer-sponsored health plan no longer meets qualified employer-sponsored ~~coverage~~ insurance requirements.

2. Termination date of premiums. Payment of premium assistance subsidy shall end on whichever of the following occurs the earliest:

a. On the last day of the month in which eligibility for Medicaid ends;

b. The last day of the month in which the member loses eligibility for coverage in the ~~group health plan~~ qualified employer-sponsored insurance plan;

c. The last day of the month in which the child turns ~~age~~ 19 years of age;

d. The last day of the month in which adequate notice has been given (consistent with federal ~~requirements)~~ requirements at 42 CFR 431.211) that DMAS has determined that the ~~group health plan~~ qualified employer-sponsored insurance plan no longer meets program eligibility criteria; or

~~d.~~ e. The last day of the month in which adequate notice has been given (consistent with federal ~~requirements)~~ requirements at 42 CFR 431.211) that HIPP for Kids participation requirements have not been met.

~~J.~~ L. Third-party liability. When members are enrolled in qualified employer-sponsored ~~coverage health~~ insurance plans, these plans shall become the first sources of health care benefits, up to the limits of such plans, prior to the availability of payment under Title XIX.

~~K.~~ M. Appeal rights. ~~Members~~ Applicants and members shall be given the opportunity to appeal adverse agency decisions consistent with agency regulations for client appeals ~~(12VAC30-110)~~ (12VAC30-110-10 through 12VAC30-110-370).

~~L.~~ N. Provider requirements. Providers shall be required to accept the greater of the ~~group health plan's~~ qualified employer-sponsored insurance plan's reimbursement rate or the Medicaid rate as payment in full and shall be prohibited from charging the member or the Medicaid program amounts that would result in aggregate payments greater than the Medicaid rate as required by 42 CFR 447.20.

O. Provider participation or enrollment. The Commonwealth will enroll network providers as full Medicaid providers or enroll as fee-for-service Medicaid providers solely for the purpose of receiving cost sharing, similar to processes related to enrolling Medicare-participating providers that serve dually eligible members. If the Commonwealth enrolls providers for the sole purpose of being reimbursed for cost sharing, the provider would make the decision to enroll knowing that the provider network would be the same as for other enrollees of the qualified employer-sponsored insurance plan. In either scenario, the member would never pay more than the permissible Medicaid copayment.

12VAC30-20-210. State method on cost effectiveness of ~~employer-based group health~~ qualified employer-sponsored insurance plans.

A. Definitions. The following words and terms when used in ~~these regulations~~ this section shall have the following meanings unless the context clearly indicates otherwise:

~~"Average monthly Medicaid cost" means average monthly medical expenditures based upon age, gender, Medicaid enrollment covered group, and geographic region of the state.~~

~~"Average monthly wraparound cost" means the average monthly aggregate costs for services not covered by private health insurance but covered under the State Plan for Medical Assistance, also includes copayments, coinsurance, and deductibles.~~

"Case" means all family members who are eligible for coverage under the ~~group health plan~~ qualified employer-sponsored insurance plan and who are eligible for Medicaid.

"Code" means the Code of Virginia.

"Cost effective" and "cost effectiveness" mean the reduction in Title XIX expenditures, which are likely to be greater than the additional expenditures for premiums and cost-sharing items required under § 1906 of the Social Security Act (the Act), with respect to such enrollment.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DSS" means the Department of Social Services consistent with Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 of the Code of Virginia.

"Family member" means ~~individuals~~ an individual in the household, who is not a parent and who ~~are~~ is related by blood, marriage, adoption, or legal custody.

~~"Family health plan" and "family care coverage" means a group health plan that covers three or more individuals. Family health plans that cover three or more non-Medicaid eligible individuals are not eligible for the HIPP premium assistance subsidy.~~

"Group health plan" means a plan ~~which~~ that meets § 5000(b)(1) of the Internal Revenue Code of 1986, and includes continuation coverage pursuant to Title XXII of the Public Health Service Act, § 4980B of the Internal Revenue Code of 1986, or Title VI of the Employee Retirement Income Security Act of 1974. Section 5000(b)(1) of the Internal Revenue Code provides that a group health plan is a plan, including a self-insured plan, of, or contributed to by, an employer (including a self-insured person) or employee association to provide health care (directly or otherwise) to the employees, former employees, or the families of such employees or former employees, or the employer.

"High deductible health plan" means a plan as defined in § 223(c)(2) of Internal Revenue Code of 1986, without regard to whether the plan is purchased in conjunction with a health savings account (as defined under § 223(d) of ~~such Code~~) the Internal Revenue Code of 1986).

"HIPP" means the Health Insurance Premium Payment Program administered by DMAS consistent with § 1906 of the Act.

"Member" means a person who is eligible for Medicaid as determined by DMAS or a DMAS-designated agent, including the Department of Social Services.

"Network provider" means a provider who is enrolled with a DMAS contracted managed care organization (MCO) as a provider and meets the requirement for an expedited enrollment as a fee-for-service (FFS) Medicaid provider for payment and billing purposes.

"Parent" means the biological or adoptive parent, or the biological or adoptive parent and the stepparent, living in the home with the Medicaid-eligible child. The health insurance policyholder shall be a parent as defined in this section.

"Payee" means the insured employee who is the policy holder of the qualified employer-sponsored insurance plan who is paid the HIPP or HIPP for Kids premium and cost-sharing reimbursement.

"Premium" means the fixed cost of participation in the group health plan; such cost may be shared by the employer and employee or paid in full by either party.

"Premium assistance subsidy" means the portion that DMAS will pay of the employee's cost of participating in ~~an employer's health~~ a qualified employer-sponsored insurance plan to cover the Medicaid eligible members under the employer-sponsored plan if DMAS determines it is cost effective to do so.

~~"Recipient" means a person who is eligible for Medicaid as determined by the Department of Social Services.~~

"Qualified employer-sponsored insurance" as defined under § 2105(c)(10)(B) of the Social Security Act means a group health plan or health insurance coverage offered through an employer:

1. That qualifies as creditable coverage as a group health plan under § 2701(c)(1) of the Public Health Service Act;

2. For which the employer contribution toward any premium for such coverage is at least 40%; and

3. That is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of § 105(h)(3)(A)(ii) of the Internal Revenue Code of 1986 without regard to § 105(h)(3)(B)(i).

"State Plan" means the State Plan for Medical Assistance for the Commonwealth of Virginia.

B. Program purpose. The purpose of the HIPP Program shall be to:

1. Enroll ~~recipients~~ members who have ~~an available group health plan~~ qualified employer-sponsored insurance plans that ~~is~~ are likely to be cost effective;

2. Provide premium assistance subsidy for payment of the employee share of the premiums and other cost-sharing obligations for items and services otherwise covered under the State Plan for Medical Assistance ~~(the Plan)~~; and

3. Treat coverage under such ~~employer group health~~ qualified employer-sponsored insurance plan as a ~~third party~~ third-party liability consistent with § 1906 of the Social Security Act.

C. ~~Application required. A completed HIPP application must be submitted to DMAS to be evaluated for HIPP program eligibility; if HIPP program eligibility is established, DMAS shall then evaluate the group health plan for cost effectiveness. The HIPP application consists of the forms prescribed by DMAS and any necessary information as required by the program to evaluate eligibility and perform a cost effectiveness evaluation.~~ Cost effectiveness methodology.

1. DMAS shall evaluate the individual to determine the appropriate managed care organization (MCO) capitation

rate to be used. The capitation rate will be determined based on aid category, nursing facility or waiver eligibility, age, gender, and region.

2. DMAS shall adjust the capitation rate to exclude Medicaid services that are not available through commercial group health insurance policies. This requires that the capitation rate be adjusted to exclude services, including nursing facility and long-term services and supports provided in the Commonwealth Coordinated Care (CCC) Plus program as well as community mental health services and nonemergency transportation services available in CCC Plus and Medallion.

3. DMAS shall adjust the reduced capitation rate from subdivision 2 of this subsection to reflect the higher prices employer plans pay. The Virginia price factor shall be based on the national factor of 1.3 that is published by the Centers for Medicare and Medicaid Services.

4. The qualified employer-sponsored insurance cost for the individual shall be increased to reflect the amount of coinsurance and other member cost sharing typically imposed on HIPP members and paid by DMAS. Such amount shall be determined by averaging the aggregate amount of such expenditures by DMAS in the most recently completed fiscal year by the number of HIPP members covered during the fiscal year.

5. The qualified employer-sponsored insurance plan cost determined in subdivision 4 of this subsection shall be increased to reflect the DMAS administrative expenses directly related to the HIPP program. This additional cost is determined based on the average total monthly compensation paid to each HIPP analyst employed by DMAS divided by the anticipated caseload.

6. The cost effectiveness shall be affirmed if the adjusted capitation rate from subdivision 3 of this subsection equals or exceeds the adjusted qualified employer-sponsored insurance plan cost from subdivision 5 of this subsection.

D. ~~Recipient~~ Member eligibility.

1. DMAS shall obtain specific information on all group health plans available to the recipients in the case including~~, but not limited to,~~ the effective date of coverage, the services covered by the plan, the deductibles and copayments required by the plan, the exclusions to the plan, and the amount of the premium. Coverage that is not comprehensive shall be denied premium assistance. A qualified employer-sponsored insurance plan must provide the following services in order to be considered comprehensive:

a. Physician services;

b. Inpatient and outpatient hospitalization;

c. Outpatient labs, shots, and x-rays; and

d. Prescription drugs.

~~Cases that result in a determination that the applicant is not eligible for the HIPP program shall be denied premium assistance and shall not undergo further review as described in subsection E of this section.~~ 2. All ~~family members~~ persons who are eligible for coverage under the ~~group health~~ qualified employer-sponsored insurance plan and who are eligible for Medicaid shall be eligible for consideration for HIPP, except those ~~who meet any one or more of the factors~~ identified in subdivisions ~~1~~ 2 a through ~~7~~ 2 e of this subsection.

~~1.~~ a. The recipient is Medicaid eligible due to ~~"spend-down."~~ "spenddown."

~~2.~~ b. The recipient is currently enrolled in the ~~employer sponsored health~~ qualified employee-sponsored insurance plan and is only retroactively eligible for Medicaid.

~~3.~~ c. The recipient is in a nursing home or has a deduction from patient pay responsibility to cover the insurance premium.

~~4.~~ d. Currently, Medicare beneficiaries who are enrolled in a MCO do not qualify for participation in the HIPP Program. If a Medicaid beneficiary is enrolled in an MCO, the beneficiary must wait until he is disenrolled from the MCO to become eligible for HIPP. HIPP applications are not approved until the managed care eligibility has ended at the end of the month.

e. The recipient is eligible for Medicare Part B but is not enrolled in Part B.

~~5. The recipient's family has, or would have, family healthcare coverage for three or more members who are not Medicaid eligible. Exceptions to the family health care coverage exclusion are as follows:~~

~~a. The family meets Family Access to Medical Insurance Security (FAMIS) eligibility criteria but due to existing group health insurance cannot enroll in FAMIS for the non-Medicaid family members enrolled in the health care plan; or~~

~~b. Medicaid eligibility is based upon family income (Medicaid family unit) and the family members enrolled in the health care plan are not Medicaid eligible due to Medicaid age restrictions (aged 19 or older).~~

~~6. Medicare eligibility. Medicaid recipients eligible for, or enrolled in, Medicare Part A and/or Part B who are also covered by an employer group health plan are not eligible for HIPP.~~

~~7. High Deductible Health Plans (HDHPs) are defined in § 223(c)(2) of the Internal Revenue Code of 1986. HDHPs are not cost effective for the HIPP program and shall be denied premium assistance and shall not undergo further~~

~~review as described in subsection E of this section. The annual deductible amount for a HDHP is defined by the Department of Treasury and is updated annually.~~

~~E. Cost effectiveness evaluation. If the Medicaid eligible(s) is enrolled in the health plan and is not excluded from HIPP program participation under the criteria described in subsection D of this section, DMAS shall conduct the premium cost effectiveness evaluation based upon the following methodology:~~

~~1. Recipient information. DMAS shall obtain demographic information on each recipient in each case including, but not limited to, Medicaid enrollment covered group, age, gender, and geographic region of residence in the state.~~

~~2. DMAS shall compute the average monthly Medicaid cost for each Medicaid enrollee on the group health insurance plan and compare the total cost to the employee's responsibility for the health insurance cost.~~

~~3. Wraparound cost. DMAS shall total the average monthly wraparound cost for each Medicaid enrollee on the HIPP case and subtract the amount from the average monthly Medicaid cost for the cost effectiveness evaluation.~~

~~4. Administrative cost. DMAS shall total the administrative costs of the HIPP program and estimate an average administrative cost. DMAS shall subtract the administrative cost from the average monthly Medicaid cost for the cost effectiveness evaluation.~~

~~5. Determination of premium cost effectiveness. DMAS shall determine that a group health plan is likely to be cost effective if subdivision a is less than subdivision b below:~~

~~a. The employee's responsibility for the group health plan premium.~~

~~b. The total of the average monthly Medicaid costs less the wraparound costs for each Medicaid enrollee covered by the group health plan and the administrative cost.~~

~~6. For individuals who otherwise meet all HIPP eligibility criteria in subdivision 5 of this subsection, such individuals may elect to have DMAS reimburse them up to the amount determined in subdivision 5 b of this subsection, if subdivision 5 a of this subsection is not less than subdivision 5 b of this subsection.~~

~~F. Payments. When DMAS determines that a group health plan is likely to be cost effective based on the DMAS established methodology, DMAS shall provide for the payment of premium assistance subsidy and other cost-sharing obligations for items and services otherwise covered under the Plan, except for the nominal cost-sharing amounts permitted under § 1916.~~

~~1. Effective date of premium assistance subsidy. Payment of premium assistance subsidy shall become effective on the first day of the month following the month in which DMAS receives a complete HIPP application or the first day of the month in which the group health plan coverage becomes effective, whichever is later. Payments shall be made to either the employer, the insurance company or to the individual who is carrying the group health plan coverage.~~

~~2. No payments for deductibles, coinsurances, and other cost sharing obligations for non-Medicaid eligible family members shall be made by DMAS.~~

~~3. Documentation required for premium assistance subsidy reimbursement. A person to whom DMAS is paying an employer group health plan premium assistance subsidy shall, as a condition of receiving such payment, provide documentation as prescribed by DMAS of the payment of the employer group health plan premium for the group health plan that DMAS determined to be cost effective.~~

E. Application required. A completed HIPP application must be submitted to DMAS to be evaluated for HIPP program eligibility; if HIPP program eligibility is established, DMAS shall then evaluate the group health plan for cost effectiveness. The HIPP application consists of the forms prescribed by DMAS and any necessary information as required by the program to evaluate eligibility and perform a cost-effectiveness evaluation.

1. Effective date of premium assistance subsidy. Payment of premium assistance subsidy shall become effective on the first day of the month following the month in which DMAS approves the application and makes the cost effectiveness determination. Payment shall be made to either the employer, the insurance company, or to the individual who is carrying the group health plan coverage.

2. Termination date of premium assistance subsidy. Payment of premium assistance subsidy shall end on whichever of the following occurs the earliest:

a. On the last day of the month in which eligibility for Medicaid ends;

b. The last day of the month in which the recipient loses eligibility for coverage in the qualified employer-sponsored insurance plan; or

c. The last day of the month in which adequate notice has been given (consistent with federal requirements at 42 CFR 431.211) that DMAS has redetermined that the group health plan is no longer cost effective.

3. Non-Medicaid-eligible family members. Payment of premium assistance subsidy for non-Medicaid-eligible family members may be made when their enrollment in the qualified employer-sponsored insurance plan is required in order for the recipient to obtain the qualified employer-sponsored insurance plan coverage. Such payments shall be treated as payments for Medicaid benefits for the recipient. No payments for deductibles, coinsurances, and

other cost-sharing obligations for non-Medicaid-eligible family members shall be made by DMAS.

4. Evidence of enrollment required. The payee to whom DMAS is paying the qualified employer-sponsored insurance plan premium assistance subsidy shall, as a condition of receiving such payment, provide to DSS or DMAS, upon request, written evidence of the payment of the employee's share of the plan premium for the qualified employer-sponsored insurance plan that DMAS determined to be cost effective.

F. Cost-sharing wrap.

1. Premium assistance enrollment is voluntary. Individuals enrolled in the HIPP program are afforded the same member protections provided to all other Medicaid enrollees. Cost sharing shall only be charged to Medicaid members as permitted under §§ 1916 and 1916A of the Social Security Act. Cost sharing shall not exceed 5.0% of household income.

2. The Commonwealth will provide a cost-sharing wrap to any cost-sharing amounts of a Medicaid covered service that exceeds the cost-sharing limits described in the State Plan, regardless of whether individuals enrolled in a HIPP program receive care from a Medicaid participating provider or a nonparticipating provider.

3. To effectuate the cost-sharing wrap, the Commonwealth will encourage nonparticipating providers to enroll by conducting targeted outreach to inform nonparticipating Medicaid providers on how to enroll in Medicaid for the purposes of receiving payment from the state for cost-sharing amounts that exceed the Medicaid permissible limits.

4. The Commonwealth will inform members regarding options available when the member obtains care from a nonparticipating provider, including, as applicable, reimbursement for out-of-pocket, cost-sharing costs from this provider.

5. In order to receive reimbursement, the individual shall submit to DMAS an explanation of benefits or similar documentation from the insurance company or doctor's office showing DOS, that the expense is the responsibility of the member or parent, that the expense was paid prior to the submission of the request, and sufficient identification codes for the DOS to enable DMAS to determine if the service is reimbursable before applying the remaining cost-sharing criteria.

6. Reimbursement for cost sharing shall be processed on a quarterly basis.

G. ~~Program~~ HIPP program participation requirements. Participants must comply with the following program requirements as prescribed by DMAS for continued enrollment in HIPP. Failure to comply shall result in termination from the program.

1. Submission of documentation of any change to the qualified employer-sponsored insurance plan, to include any changes to the employee share of the premium expense, within ~~specified time frame in accordance with DMAS established policy~~ 10 days of receipt of notice of the change.

2. ~~Changes that impact the cost effectiveness evaluation~~ Any household change, including income and individuals in household, must be reported within 10 days of the change.

3. Completion of annual redetermination.

4. Completion of consent forms. Participants may be required to complete a consent form to release information necessary for HIPP participation and program requirements as required by DMAS.

~~5. Participants terminated for noncompliance under subdivision 1 or 2 of this subsection shall be barred from reapplying to the HIPP program for three months from the date of cancellation.~~

H. HIPP redetermination. DMAS shall redetermine the cost effectiveness of the ~~group health~~ qualified employer-sponsored insurance plan periodically, and at least every 12 months. DMAS shall also redetermine cost effectiveness when changes occur with the recipient's average Medicaid cost ~~and/or~~ or with the ~~group health~~ qualified employer-sponsored insurance plan information that was used in determining the cost effectiveness. When only part of the household loses Medicaid eligibility, DMAS shall redetermine the cost effectiveness to ascertain whether payment of the premium assistance subsidy of the ~~group health~~ qualified employer-sponsored insurance plan continues to be cost effective.

~~I. Program termination. Participation in the HIPP program shall be terminated for failure to comply with or meet program requirements. Termination will be effective the last day of the month in which advance notice has been given (consistent with 42 CFR 431.211)].~~

~~1. In addition to the reasons listed in subsection G of this section, participation shall be terminated for:~~

~~a. Loss of Medicaid eligibility for all household members;~~

~~b. Medicaid household member no longer covered by employer health plan; or~~

~~c. Employer group health plan is determined to be not cost effective.~~

~~2. Termination date of premiums. Payment of premium assistance subsidy shall end on whichever of the following occurs the earliest:~~

~~a. On the last day of the month in which eligibility for Medicaid ends;~~

~~b. The last day of the month in which the recipient loses eligibility for coverage in the group health plan;~~

~~c. The last day of the month in which adequate notice has been given (consistent with federal requirements) that DMAS has determined that the group health plan is no longer cost effective; or~~

~~d. The last day of the month in which adequate notice has been given (consistent with federal requirements) that HIPP participation requirements have not been met.~~

I. Multiple group health plans. When a member is eligible for more than one group health plan, DMAS shall perform the cost effectiveness determination on the group health plan in which the member is enrolled. If the member is not enrolled in a group health plan, DMAS shall perform the cost effectiveness determination on each group health plan available to the member.

J. ~~Third party~~ Third-party liability. When recipients are enrolled in group health plans, these plans shall become the first sources of health care benefits, up to the limits of such plans, prior to the availability of Title XIX benefits.

K. Appeal rights. ~~Recipients~~ Applicants and members shall be given the opportunity to appeal adverse agency decisions consistent with agency regulations for client appeals ~~(12VAC30-110)~~ (12VAC30-110-10 through 12VAC30-110-370).

L. Provider requirements. Providers shall be required to accept the greater of the group health plan's reimbursement rate or the Medicaid rate as payment in full and shall be prohibited from charging the recipient or Medicaid amounts that would result in aggregate payments greater than the Medicaid rate as required by 42 CFR 447.20.

M. Provider participation or enrollment. The Commonwealth will enroll network providers as full Medicaid providers or as fee-for-service Medicaid providers solely for the purpose of receiving cost sharing, similar to processes related to enrolling Medicare-participating providers that serve dually eligible members. If the state enrolls providers for the sole purpose of being reimbursed for cost sharing, the payee would make the decision to enroll knowing that the provider network would be the same as for other enrollees of the qualified employer-sponsored insurance. In either scenario, the member would never pay more than the permissible Medicaid copayment.

12VAC30-30-10. Mandatory coverage: categorically needy and other required special groups.

The Title IV-A agency or the Department of Medical Assistance Services Central Processing Unit determines eligibility for Title XIX services. The following groups shall be eligible for medical assistance as specified:

1. Parents and other caretaker relatives of dependent children with household income at or below a standard established by the ~~state~~ Commonwealth in 12VAC30-40-100 consistent with 42 CFR 435.110 and §§ 1902(a)(10)(A)(i)(l) and 1931(b) of the Social Security Act. Individuals qualifying under this eligibility group shall meet the following criteria:

a. Parents, other caretaker relatives (defined at 42 CFR 435.4) including pregnant women, or dependent children (defined at 42 CFR 435.4) younger than ~~the age of~~ 18 years of age. This group includes individuals who are parents or other caretaker relatives of children who are 18 years of age provided the children are full-time students in a secondary school or the equivalent level of vocational or technical training and are expected to complete such school or training before their 19th birthday.

b. Spouses of parents and other caretaker relatives shall include other relatives of the child based on blood (including those of half-blood), adoption, or marriage. Other relatives of a specified degree of the dependent child shall include any blood relative (including those of half-blood) and including (i) first cousins; (ii) nephews or nieces; (iii) persons of preceding generations as denoted by prefixes of grand, great, or great-great; (iv) stepbrother; (v) stepsister; (vi) a relative by adoption following entry of the interlocutory or final order, whichever is first; (vii) the same relatives by adoption as listed in this subdivision 1 b; and (viii) spouses of any persons named in this subdivision 1 b even after the marriage is terminated by death or divorce.

MAGI-based income methodologies in 12VAC30-40-100 shall be used in calculating household income.

2. Women who are pregnant or postpartum with household income at or below a standard established by the Commonwealth in 12VAC30-40-100, consistent with 42 CFR 435.116 and §§ 1902(a)(10)(A)(i)(III) and (IV), 1902(a)(10)(A)(ii)(I) and (IX), and 1931(b) of the Act. Individuals qualifying under this eligibility group shall be pregnant or postpartum as defined in 42 CFR 435.4.

a. A woman who, while pregnant, was eligible for, applied for, and received Medicaid under the approved state plan on the day her pregnancy ends. The woman continues to be eligible, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan for a 60-day period, beginning on the last

day of her pregnancy, and for any remaining days in the month in which the 60th day falls.

b. A pregnant woman who would otherwise lose eligibility because of an increase in income of the family in which she is a member during the pregnancy or the postpartum period that extends through the end of the month in which the 60-day period, beginning on the last day of pregnancy, ends.

MAGI-based income methodologies in 12VAC30-40-100 shall be used in calculating household income.

3. Infants and children younger than ~~the age of~~ 19 years of age with household income at or below standards based on this age group, consistent with 42 CFR 435.118 and §§ 1902(a)(10)(A)(i)(III), (IV) and (VIII); 1902(a)(10)(A)(ii)(IV) and (IX); and 1931(b) of the Act. Children qualifying under this eligibility group shall meet the following criteria:

a. They are younger than ~~the age of~~ 19 years of age; and

b. They have a household income at or below the standard established by the Commonwealth.

MAGI-based income methodologies in 12VAC30-40-100 shall be used in calculating household income.

4. The adult group as described at 42 CFR 435.119.

~~4.~~ 5. Former foster care children younger than ~~the age of~~ 26 years of age who are not otherwise mandatorily eligible in another Medicaid classification, who were on Medicaid and in foster care when they turned ~~age~~ 18 years of age, or who aged out of foster care. Individuals qualifying under this eligibility group shall meet the following criteria:

a. They shall be younger than ~~the age of~~ 26 years of age;

b. They shall not be otherwise eligible for and enrolled for mandatory coverage under the state plan; and

c. They were in foster care under the responsibility of the ~~state of Virginia~~ Commonwealth or a federally recognized tribe and were enrolled in Virginia Medicaid under the state plan when they turned ~~age~~ 18 years of age or at the time of aging out of the foster care program.

~~5.~~ 6. Families terminated from coverage under § 1931 of the Act solely because of earnings or hours of employment shall be entitled to up to 12 months of extended benefits in accordance with § 1925 of the Act.

~~6.~~ 7. A child born to a woman who is eligible for and receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year from birth, as long as he remains a resident of the Commonwealth. A redetermination of eligibility must be completed on behalf of the deemed child at age one year and annually thereafter so long as he remains eligible.

~~7.~~ 8. Aged, blind, and disabled individuals receiving cash assistance.

a. Individuals who meet more restrictive requirements for Medicaid than the SSI requirements. (This includes persons who qualify for benefits under § 1619(a) of the Act or who meet the eligibility requirements for SSI status under § 1619(b)(1) of the Act and who met the ~~state's~~ Commonwealth's more restrictive requirements for Medicaid in the month before the month they qualified for SSI under § 1619(a) or met the requirements under § 1619(b)(1) of the Act. Medicaid eligibility for these individuals continues as long as they continue to meet the § 1619(a) eligibility standard or the requirements of § 1619(b) of the Act.)

b. These persons include the aged, the blind, and the disabled.

c. Protected SSI children (pursuant to § 1902(a)(10)(A)(i)(II) of the Act) (P.L. 105-33 § 4913). Children who meet the pre-welfare reform definition of childhood disability who lost their SSI coverage solely as a result of the change in the definition of childhood disability, and who also meet the more restrictive requirements for Medicaid than the SSI requirements.

d. The more restrictive categorical eligibility criteria are described in 12VAC30-30-40.

Financial criteria are described in 12VAC30-40-10.

~~8.~~ 9. Qualified severely impaired blind and disabled individuals ~~under age~~ younger than 65 years of age who:

a. For the month preceding the first month of eligibility under the requirements of § 1905(q)(2) of the Act, received SSI, a state supplementary payment (SSP) under § 1616 of the Act or under § 212 of P.L. 93-66 or benefits under § 1619(a) of the Act and were eligible for Medicaid; or

b. For the month of June 1987, were considered to be receiving SSI under § 1619(b) of the Act and were eligible for Medicaid. These individuals must:

(1) Continue to meet the criteria for blindness or have the disabling physical or mental impairment under which the individual was found to be disabled;

(2) Except for earnings, continue to meet all nondisability-related requirements for eligibility for SSI benefits;

(3) Have unearned income in amounts that would not cause them to be ineligible for a payment under § 1611(b) of the Act;

(4) Be seriously inhibited by the lack of Medicaid coverage in their ability to continue to work or obtain employment; and

(5) Have earnings that are not sufficient to provide for ~~himself~~ themselves a reasonable equivalent of the Medicaid, SSI (including any federally administered SSP), or public funded attendant care services that would be available if ~~he~~ they did have such earnings.

The state applies more restrictive eligibility requirements for Medicaid than under SSI and under 42 CFR 435.121. Individuals who qualify for benefits under § 1619(a) of the Act or individuals described ~~above~~ in this section who meet the eligibility requirements for SSI benefits under § 1619(b)(1) of the Act and who met the state's more restrictive requirements in the month before the month they qualified for SSI under § 1619(a) or met the requirements of § 1619(b)(1) of the Act are covered. Eligibility for these individuals continues as long as they continue to qualify for benefits under § 1619(a) of the Act or meet the SSI requirements under § 1619(b)(1) of the Act.

~~9.~~ 10. Except in states that apply more restrictive requirements for Medicaid than under SSI, blind or disabled individuals who:

a. Are at least 18 years of age; and

b. Lose SSI eligibility because they become entitled to Old Age, Survivor, and Disability Insurance (OASDI) child's benefits under § 202(d) of the Act or an increase in these benefits based on their disability. Medicaid eligibility for these individuals continues for as long as they would be eligible for SSI, absence their OASDI eligibility.

The ~~state~~ Commonwealth does not apply more restrictive income eligibility requirements than those under SSI.

~~10.~~ 11. Except in states that apply more restrictive eligibility requirements for Medicaid than under SSI, individuals who are ineligible for SSI or optional state supplements (if the agency provides Medicaid under § 435.230 of the Act), because of requirements that do not apply under Title XIX of the Act.

~~11.~~ 12. Individuals receiving mandatory state supplements.

~~12.~~ 13. Individuals who in December 1973 were eligible for Medicaid as an essential spouse and who have continued, as a spouse, to live with and be essential to the well-being of a recipient of cash assistance. The recipient with whom the essential spouse is living continues to meet the December 1973 eligibility requirements of the ~~state's~~ Commonwealth's approved plan for Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to the Aged, Blind, and Disabled and the spouse continues to meet the December 1973 requirements for ~~have~~ his needs to be included in computing the cash payment. In December 1973, Medicaid coverage of the essential spouse was limited to the aged, the blind, and the disabled.

~~13.~~ 14. Institutionalized individuals who were eligible for Medicaid in December 1973 as inpatients of Title XIX medical institutions or residents of Title XIX intermediate care facilities, if, for each consecutive month after December 1973, they:

a. Continue to meet the December 1973 Medicaid State Plan eligibility requirements;

b. Remain institutionalized; and

c. Continue to need institutional care.

~~14.~~ 15. Blind and disabled individuals who:

a. Meet all current requirements for Medicaid eligibility except the blindness or disability criteria;

b. Were eligible for Medicaid in December 1973 as blind or disabled; and

c. For each consecutive month after December 1973 continue to meet December 1973 eligibility criteria.

~~15.~~ 16. Individuals who would be ~~SSI/SSP~~ SSI or SSP eligible except for the increase in OASDI benefits under P.L. 92-336 (July 1, 1972), who were entitled to OASDI in August 1972, and who were receiving cash assistance in August 1972. This includes persons who would have been eligible for cash assistance but had not applied in August 1972 (this group was included in this state's August 1972 plan), and persons who would have been eligible for cash assistance in August 1972 if not in a medical institution or intermediate care facility (this group was included in this state's August 1972 plan).

~~16.~~ 17. Individuals who:

a. Are receiving OASDI and were receiving ~~SSI/SSP~~ SSI or SSP but became ineligible for ~~SSI/SSP~~ SSI or SSP after April 1977; and

b. Would still be eligible for SSI or SSP if cost-of-living increases in OASDI paid under § 215(i) of the Act received after the last month for which the individual was eligible for and received ~~SSI/SSP~~ SSI or SSP and OASDI, concurrently, were deducted from income.

The state applies more restrictive eligibility requirements than those under SSI and the amount of increase that caused ~~SSI/SSP~~ SSI or SSP ineligibility and subsequent increases are deducted when determining the amount of countable income for categorically needy eligibility.

~~17.~~ 18. Disabled widows and widowers who would be eligible for SSI or SSP except for the increase in their OASDI benefits as a result of the elimination of the reduction factor required by § 134 of P.L. 98-21 and who are deemed, for purposes of Title XIX, to be SSI beneficiaries or SSP beneficiaries for individuals who would be eligible for SSP only, under § 1634(b) of the Act.

The state does not apply more restrictive income eligibility standards than those under SSI.

~~18.~~ 19. Disabled widows, disabled widowers, and disabled unmarried divorced spouses who had been married to the insured individual for a period of at least 10 years before the divorce became effective, who have attained the age of 50, who are receiving Title II payments, and who because of the receipt of Title II income lost eligibility for SSI or SSP which they received in the month prior to the month in which they began to receive Title II payments, who would be eligible for SSI or SSP if the amount of the Title II benefit were not counted as income, and who are not entitled to Medicare Part A.

The state applies more restrictive eligibility requirements for its blind or disabled than those of the SSI program.

~~19.~~ 20. Qualified Medicare beneficiaries:

a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818 of the Act);

b. Whose income does not exceed 100% of the federal level; and

c. Whose resources do not exceed twice the maximum standard under SSI or, effective January 1, 2010, the resource limit set for the Medicare Part D Low Income Subsidy Program.

Medical assistance for this group is limited to Medicare cost sharing as defined in item 3.2 of this plan.

~~20.~~ 21. Qualified disabled and working individuals:

a. Who are entitled to hospital insurance benefits under Medicare Part A under § 1818A of the Act;

b. Whose income does not exceed 200% of the federal poverty level;

c. Whose resources do not exceed twice the maximum standard under SSI; and

d. Who are not otherwise eligible for medical assistance under Title XIX of the Act.

Medical assistance for this group is limited to Medicare Part A premiums under §§ 1818 and 1818A of the Act.

~~21.~~ 22. Specified low-income Medicare beneficiaries:

a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818A of the Act);

b. Whose income for calendar years 1993 and 1994 exceeds the income level in subdivision 25 b of this section, but is less than 110% of the federal poverty level, and whose income for calendar years beginning 1995 is less than 120% of the federal poverty level; and

c. Whose resources do not exceed twice the maximum standard under SSI or, effective January 1, 2010, the resource limit set for the Medicare Part D Low Income Subsidy Program.

Medical assistance for this group is limited to Medicare Part B premiums under § 1839 of the Act.

~~22.~~ 23. a. Each person to whom SSI benefits by reason of disability are not payable for any month solely by reason of ~~clause (i) or (v) of § 1611(e)(3)(A)~~ § 1611(e)(3)(A)(i) or (v) shall be treated, for purposes of Title XIX, as receiving SSI benefits for the month.

b. The state applies more restrictive eligibility standards than those under SSI. Individuals whose eligibility for SSI benefits are based solely on disability who are not payable for any months solely by reason of ~~clause (i) or (v) of § 1611(e)(3)(A)~~ § 1611(e)(3)(A)(i) or (v) and who continue to meet the more restrictive requirements for Medicaid eligibility under the state plan, are eligible for Medicaid as categorically needy.

12VAC30-40-348. Adult group individual income-based determinations.

A. Methodology for identification of applicable federal medical assistance percentages (FMAP) rates. DMAS will determine the appropriate FMAP rate for expenditures for individuals enrolled in the adult group described in 42 CFR 435.119 and receiving benefits in accordance with 42 CFR Part 440 Subpart C. The adult group FMAP methodology consists of two parts: an individual-based determination related to enrolled individuals and, as applicable, appropriate population-based adjustments.

B. Adult group individual income-based determinations. For individuals eligible in the adult group, the Commonwealth will make an individual income-based determination for purposes of the adult group FMAP methodology by comparing individual income to the relevant converted income eligibility standards in effect on December 1, 2009, and included in the Modified Adjusted Gross Income (MAGI) Conversion Plan (Part 2) approved by Centers for Medicare and Medicaid Services (CMS) on February 11, 2014. In general, and subject to any adjustments described in this section, under the adult group FMAP methodology, the expenditures of individuals with incomes below the relevant converted income standards for the applicable subgroup are considered as those for which the newly eligible FMAP is not available.

C. Population-based adjustments to the newly eligible population based on resource test, enrollment cap, or special circumstances.

1. The Commonwealth does not apply a resource proxy adjustment.

2. The Commonwealth does not apply an enrollment cap.

3. The Commonwealth does not apply a special circumstance adjustment.

4. The Commonwealth does not apply any additional adjustment to the adult group FMAP methodology.

D. Individuals previously eligible for Medicaid coverage through a § 1115 demonstration program or a mandatory or optional State Plan eligibility category will be transitioned to the new adult group described in 42 CFR 435.119 in accordance with a CMS-approved transition plan or a § 1902(e)(14)(A) waiver.

E. Applicability of special FMAP rates.

1. The Commonwealth does not meet the definition of an expansion state in 42 CFR 433.204(b).

2. The Commonwealth does not qualify for a temporary 2.2% increase in FMAP under 42 CFR 433.10(c)(7).

F. The Commonwealth attests to the following:

1. The application of the adult group FMAP methodology will not affect the timing or approval of any individual's eligibility for Medicaid.

2. The application of the adult group FMAP methodology will not be biased in such a manner as to inappropriately establish the numbers of, or medical assistance expenditures for, individuals determined to be newly or not newly eligible.

VA.R. Doc. No. R19-5692; Filed July 3, 2019, 1:36 p.m.

Emergency Regulation

Title of Regulation: **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (adding 12VAC30-50-610).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Dates: September 19, 2019, through March 18, 2021.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, 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.

Preamble:

Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Chapter 2, Item 303 SS 4 a of the 2018 Acts of Assembly directs the Department of Medical Assistance Services (DMAS) to "...amend the State Plan for Medical Assistance … to implement coverage for newly eligible individuals…" Item 303 SS 4 f states that DMAS "...shall have the authority to promulgate emergency regulations to implement these changes within 280 days or less …"

This regulatory action adds the alternative benefit plan (ABP), which is available to individuals who are covered by Medicaid expansion, to the Virginia State Plan for Medical Assistance in order to implement Medicaid expansion. The Centers for Medicare and Medicaid Services (CMS) requires state Medicaid agencies to create an ABP for expansion populations. The changes included in this regulatory action have already been reviewed and approved by CMS.

Part X
Alternative Benefit Plan

12VAC30-50-610. Alternative benefit plan: Medicaid expansion.

A. The Commonwealth provides alternative benefits to the adult group under the coverage option under § 1937 of the Social Security Act (42 USC § 301 et seq.) approved by the Secretary of Health and Human Services. Enrollment is mandatory for individuals in the adult group, and the alternative benefit package shall be available statewide.

B. In developing the benefit package for the alternative benefit plan, the Commonwealth reviewed:

1. Benefits in its approved State Plan as a "benchmark benefit package";

2. The largest plan by enrollment of the three largest small-group insurance products in the small-group market as the "base benchmark plan"; and

3. Essential health benefits.

C. Alternative benefit plan services.

1. The alternative benefit plan includes Medicaid State Plan services, including essential health benefits.

2. The essential health benefits included in the alternative benefit plan are ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care.

D. The Commonwealth makes the following benefits assurances:

1. The Commonwealth assures that (i) the notice to an individual includes a description of the method for ensuring access to early and periodic screening, diagnosis, and treatment (EPSDT) services and (ii) EPSDT services will be provided to individuals younger than 21 years of age who are covered under the State Plan under § 1902(a)(1)(A) of the Social Security Act.

2. The Commonwealth assures that it meets the minimum requirements for prescription drug coverage in § 1937 of the Social Security Act and implementing regulations at 42 CFR 440.347. Coverage is at least the greater of one drug in each United States Pharmacopeia (USP) category and class or the same number of prescription drugs in each category and class as the base benchmark plan.

3. The Commonwealth assures that beneficiaries may request and gain access to clinically appropriate prescription drugs when not covered.

4. The Commonwealth assures that when it pays for outpatient prescription drugs covered under an alternative benefit plan, the drug meets the requirements of § 1927 of the Social Security Act and implementing regulations at 42 CFR 440.345, except for those requirements that are directly contrary to amount, duration, and scope of coverage permitted under § 1937 of the Social Security Act.

5. The Commonwealth assures that when conducting prior authorization of prescription drugs under an alternative benefit plan, the prescription complies with prior authorization program requirements in § 1927(d)(5) of the Social Security Act.

6. The Commonwealth assures that (i) substituted benefits are actuarially equivalent to the benefits they replaced from the base benchmark plan, and (ii) the Commonwealth has an actuarial certification for substituted benefits available for Centers for Medicare and Medicaid Services (CMS) inspection if requested by CMS.

7. The Commonwealth assures that individuals will have access to services in rural health clinics (RHC) and federally qualified health centers (FQHC) as defined in § 1905(a)(2)(B) and (C) of the Social Security Act.

8. The Commonwealth assures that payment for RHC and FQHC services is made in accordance with the requirements of § 1902(bb) of the Social Security Act.

9. The Commonwealth assures that it will comply with the requirement of § 1937(b)(5) of the Social Security Act by providing at least essential health benefits as described in § 1302(b) of the Patient Protection and Affordable Care Act (42 USC § 18001) to all alternative benefit plan participants.

10. The Commonwealth assures that it will comply with the mental health and substance use disorder parity requirements of § 1937(b)(6) of the Social Security Act by ensuring that the financial requirements and treatment limitations applicable to mental health or substance use disorder benefits comply with the requirements of § 2705(a) of the Public Health Service Act (42 USC § 201 et seq.) in the same manner as such requirements apply to a group health plan.

11. The Commonwealth assures that it will comply with § 1937(b)(7) of the Social Security Act by ensuring that benefits provided to alternative benefit plan participants include, for any individual described in § 1905(a)(4)(C) of the Social Security Act, medical assistance for family planning services and supplies in accordance with such section.

12. The Commonwealth assures emergency and nonemergency transportation for individuals enrolled in an alternative benefit plan in accordance with 42 CFR 431.53.

13. The Commonwealth assures, in accordance with 45 CFR 156.115(a)(4) and 45 CFR 147.130, that it will provide as essential health benefits a broad range of preventive services including "A" and "B" services recommended by the U.S. Preventive Services Task Force; Advisory Committee on Immunization Practices recommended vaccines; preventive care and screening for infants, children, and adults recommended by the Health Resources and Services Administration Bright Futures Program; and additional preventive services for women recommended by the Institute of Medicine.

E. The Commonwealth will use both managed care and fee-for-service delivery systems for the alternative benefit plan.

1. The Commonwealth certifies that it will comply with all applicable Medicaid laws and regulations, including §§ 1903(m), 1905(t), and 1932 of the Social Security Act and 42 CFR Part 438, in providing managed care services through the alternative benefit plan. This certification includes the requirement for CMS approval of contracts and rates pursuant to 42 CFR 438.6.

2. The managed care delivery system is the same as the CMS-approved § 1915(b) managed care waivers. The fee-for-service delivery system is the traditional, state-managed system.

3. The Commonwealth assures that, for each benefit provided under an alternative benefit plan that is not provided through managed care, the Commonwealth will use the payment methodology in its approved state plan.

F. Individuals who have cost-effective group health plans described in § 1906 of the Social Security Act or qualified employer-sponsored plans described in § 1906A of the Social

Security Act may request to receive coverage through the Health Insurance Premium Payment program.

G. Any cost sharing described in Attachment 4.18-A of the State Plan (12VAC30-20-150) applies to the alternative benefit plan.

H. The Commonwealth makes the following general assurances:

1. The Commonwealth assures that the alternative benefit plan coverage is provided in accordance with federal upper payment limit requirements and other economy and efficiency principles that would otherwise be applicable to the services or delivery system through which the coverage and benefits are obtained.

2. The Commonwealth will continue to comply with all other provisions of the Social Security Act in the administration of the State Plan.

3. The Commonwealth assures that alternative benefit plan benefit designs shall conform to the nondiscrimination requirements at 42 CFR 430.2 and 42 CFR 440.347(e).

4. The Commonwealth assures that all providers of alternative benefit plan benefits shall meet the provider qualification requirements of the base benchmark plan or the Medicaid state plan.

VA.R. Doc. No. R19-5693; Filed July 3, 2019, 1:38 p.m.

Final Regulation

Title of Regulation: **12VAC30-80. Methods and Standards for Establishing Payment Rates - Other Types of Care (amending 12VAC30-80-40).**

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: September 19, 2019.

Agency Contact: Emily McClellan, Regulatory Supervisor, 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.

Summary:

The amendments revise the Department of Medical Assistance Services's pharmacy reimbursement methodology for the Medicaid fee-for-service program to one that meets the drug pricing definition described in a Centers for Medicare and Medicaid Services final rule that was published in the Federal Register on February 1, 2016.

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.

12VAC30-80-40. Fee-for-service providers: pharmacy.

~~Payment for pharmacy services (excluding outpatient hospital) shall be the lowest of subdivisions 1 through 5 of this section (except that subdivisions 1 and 2 of this section will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.512(c) if the brand cost is greater than the Centers for Medicare and Medicaid Services (CMS) upper limit of VMAC cost) subject to the conditions, where applicable, set forth in subdivisions 6 and 7 of this section:~~

~~1. The upper limit established by the CMS for multiple source drugs pursuant to 42 CFR 447.512 and 447.514, as determined by the CMS Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.~~

~~2. The methodology used to reimburse for generic drug products shall be the higher of either (i) the lowest Wholesale Acquisition Cost (WAC) plus 10% or (ii) the second lowest WAC plus 6.0%. This methodology shall reimburse for products' costs based on a Maximum Allowable Cost (VMAC) list to be established by the single state agency.~~

~~a. In developing the maximum allowable reimbursement rate for generic pharmaceuticals, the department or its designated contractor shall:~~

~~(1) Identify three different suppliers, including manufacturers that are able to supply pharmaceutical products in sufficient quantities. The drugs considered must be listed as therapeutically and pharmaceutically equivalent in the Food and Drug Administration's most recent version of the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book). Pharmaceutical products that are not available from three different suppliers, including manufacturers, shall not be subject to the VMAC list.~~

~~(2) Identify that the use of a VMAC rate is lower than the Federal Upper Limit (FUL) for the drug. The FUL is a known, widely published price provided by CMS; and~~

~~(3) Distribute the list of state VMAC rates to pharmacy providers in a timely manner prior to the implementation of VMAC rates and subsequent modifications. DMAS shall publish on its website, each month, the information used to set the Commonwealth's prospective VMAC rates, including, but not necessarily limited to:~~

~~(a) The identity of applicable reference products used to set the VMAC rates;~~

~~(b) The Generic Code Number (GCN) or National Drug Code (NDC), as may be appropriate, of reference products;~~

(c) The difference by which the VMAC rate exceeds the appropriate WAC price; and

(d) The identity and date of the published compendia used to determine reference products and set the VMAC rate. The difference by which the VMAC rate exceeds the appropriate WAC price shall be at least or equal to 10% above the lowest published wholesale acquisition cost for products widely available for purchase in the Commonwealth and shall be included in national pricing compendia.

b. Development of a VMAC rate that does not have a FUL rate shall not result in the use of higher cost innovator brand name or single source drugs in the Medicaid program.

c. DMAS or its designated contractor shall:

(1) Implement and maintain a procedure to add or eliminate products from the list, or modify VMAC rates, consistent with changes in the fluctuating marketplace. DMAS or its designated contractor will regularly review manufacturers' pricing and monitor drug availability in the marketplace to determine the inclusion or exclusion of drugs on the VMAC list; and

(2) Provide a pricing dispute resolution procedure to allow a dispensing provider to contest a listed VMAC rate. DMAS or its designated contractor shall confirm receipt of pricing disputes within 24 hours, via telephone or facsimile, with the appropriate documentation of relevant information, for example, invoices. Disputes shall be resolved within three business days of confirmation. The pricing dispute resolution process will include DMAS' or the contractor's verification of accurate pricing to ensure consistency with marketplace pricing and drug availability. Providers will be reimbursed, as appropriate, based on findings. Providers shall be required to use this dispute resolution process prior to exercising any applicable appeal rights.

3. The provider's usual and customary charge to the public, as identified by the claim charge.

4. The Estimated Acquisition Cost (EAC), which shall be based on the published Average Wholesale Price (AWP) minus a percentage discount established by the General Assembly (as set forth in subdivision 7 of this section) or, in the absence thereof, by the following methodology set out in subdivisions a, b, and c of this subdivision.

a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.

b. The survey shall reflect statistical analysis of actual provider purchase invoices.

c. The agency will conduct surveys at intervals deemed necessary by DMAS.

5. Maximum allowable cost (MAC) methodology for specialty drugs. Payment for drug products designated by DMAS as specialty drugs shall be the lesser of subdivisions 1 through 4 of this section or the following method, whichever is least:

a. The methodology used to reimburse for designated specialty drug products shall be the WAC price plus the WAC percentage. The WAC percentage is a constant percentage identified each year for all GCNs.

b. Designated specialty drug products are certain products used to treat chronic, high cost, or rare diseases; the drugs subject to this pricing methodology and their current reimbursement rates are listed on the DMAS website at the following internet address: http://www.dmas.virginia.gov/Content_pgs/pharm-home.aspx.

c. The MAC reimbursement methodology for specialty drugs shall be subject to the pricing review and dispute resolution procedures described in subdivisions 2 c (1) and 2 c (2) of this section.

6. Payment for pharmacy services will be as described in subdivisions 1 through 5 of this section; however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements. The dispensing fee for brand name and generic drugs is $3.75.

7. An EAC of AWP minus 13.1% shall become effective July 1, 2011. The dispensing fee for brand name and generic drugs of $3.75 shall remain in effect, creating a payment methodology based on the previous algorithm (least of subdivisions of this section) plus a dispensing fee where applicable.

A. Payment for covered outpatient legend and nonlegend drugs dispensed by a retail community pharmacy will include the drug ingredient cost plus a $10.65 professional dispensing fee. The drug ingredient cost reimbursement shall be the lowest of:

1. The national average drug acquisition cost (NADAC) of the drug, the federal upper limit (FUL), or the provider's usual and customary (U&C) charge to the public as identified by the claim charge; or

2. When no NADAC is available, DMAS shall reimburse at the lowest of the wholesale acquisition cost plus 0%, the FUL, or the provider's U&C charge to the public as identified by the claim charge.

B. Payment for specialty drugs not dispensed by a retail community pharmacy but dispensed primarily through the mail will include the drug ingredient cost plus a $10.65

professional dispensing fee. The drug ingredient cost reimbursement shall be the lowest of:

1. The NADAC of the drug, the federal upper limit (FUL), or the provider's U&C charge to the public as identified by the claim charge; or

2. When no NADAC is available, DMAS shall reimburse at the lowest of the wholesale acquisition cost plus 0%, the FUL, or the provider's U&C charge to the public as identified by the claim charge.

C. Payment for drugs not dispensed by a retail community pharmacy (i.e., institutional or long-term care facility pharmacies) will include the drug ingredient cost plus a $10.65 professional dispensing fee. The drug ingredient cost reimbursement shall be the lowest of:

1. The NADAC of the drug, the FUL, or the provider's U&C charge to the public as identified by the claim charge; or

2. When no NADAC is available, DMAS shall reimburse at the lowest of the wholesale acquisition cost plus 0%, the FUL, or the provider's U&C charge to the public as identified by the claim charge.

D. Payment for clotting factor from specialty pharmacies, hemophilia treatment centers, and centers of excellence will include the drug ingredient cost plus a $10.65 professional dispensing fee. The drug ingredient cost reimbursement shall be the lowest of:

1. The NADAC of the drug or the provider's U&C charge to the public as identified by the claim charge; or

2. When no NADAC is available, DMAS shall reimburse at the lowest of the wholesale acquisition cost plus 0% or the provider's U&C charge to the public as identified by the claim charge.

E. Section 340B covered entities and federally qualified health centers that fill Medicaid member prescriptions with drugs purchased at the prices authorized under § 340B of the Public Health [~~Services~~ Service] Act (Chapter 6A of 42 USC (42 USC § 201 et seq.)) are reimbursed no more than the actual acquisition cost for the drug plus a $10.65 professional dispensing fee. Section 340B covered entities that fill Medicaid member prescriptions with drugs not purchased under § 340B of the Public Health Services Act are reimbursed in accordance with subsection A of this section plus the $10.65 professional dispensing fee as described in subsection I of this section.

F. Drugs acquired through the federal § 340B drug price program and dispensed by § 340B contract pharmacies are not covered.

G. Facilities purchasing drugs through the federal supply schedule (FSS) or drug pricing program under 38 USC § [~~1826~~ 8126], 42 USC § 256b, or 42 USC § [~~1396 8~~ 1396r-8], other than the § 340B drug pricing program are reimbursed no more than the actual acquisition cost for the drug plus a $10.65 professional dispensing fee.

H. Facilities purchasing drugs at nominal price (i.e., outside of § 340B or FSS) are reimbursed no more than the actual acquisition cost for the drug plus a $10.65 professional dispensing fee. Nominal price as defined in 42 CFR 447.502 means that a price is less than 10% of the average manufacturer price (AMP) in the same quarter for which the AMP is computed.

I. Payment for pharmacy services are as described in subsections A through H of this section; however, they shall include the allowed cost of the drug plus only one professional dispensing fee, as defined at 42 CFR 447.502, per member per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements. The professional dispensing fee for all covered outpatient drugs shall be $10.65. The professional dispensing fee shall be determined by a cost of dispensing survey conducted at least every five years.

J. Physician administered drugs (PADs) submitted under the medical benefit are reimbursed at 106% of the average sales price (ASP) as published by the Centers for Medicare and Medicaid Services (CMS). PADs without an ASP on the CMS reference file are reimbursed at the provider's actual acquisition cost. Covered entities using drugs purchased at the prices authorized under § 340B of the Public Health [~~Services~~ Service] Act for Medicaid members shall bill Medicaid their actual acquisition cost.

K. Payment to Indian Health Service, tribal, and urban Indian pharmacies. DMAS does not have any Indian Health Service, tribal, or urban Indian pharmacies enrolled at this time. Payment for pharmacy services will be defined in a state plan amendment if such entity enrolls with DMAS.

L. Investigational drugs are not a covered service under the DMAS pharmacy program.

~~8.~~ M. Home infusion therapy.

~~a.~~ 1. The following therapy categories shall have a pharmacy service day rate payment allowable: hydration therapy, chemotherapy, pain management therapy, drug therapy, and total parenteral nutrition (TPN). The service day rate payment for the pharmacy component shall apply to the basic components and services intrinsic to the therapy category. Submission of claims for the per diem rate shall be accomplished by use of the CMS 1500 claim form.

~~b.~~ 2. The cost of the active [~~ingredient or~~] ingredients for chemotherapy, pain management and drug therapies shall be submitted as a separate claim through the pharmacy program, using standard pharmacy format. Payment for

this component shall be consistent with the current reimbursement for pharmacy services. Multiple applications of the same therapy shall be reimbursed one service day rate for the pharmacy services. Multiple applications of different therapies shall be reimbursed at 100% of standard pharmacy reimbursement for each active ingredient.

~~9.~~ N. Supplemental rebate agreement. The Commonwealth complies with the requirements of § 1927 of the Social Security Act and Subpart I (42 CFR 447.500 et seq.) of 42 CFR Part 447 with regard to supplemental drug rebates. In addition, the following requirements are also met:

~~a.~~ 1. Supplemental drug rebates received by the state in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national drug rebate agreement.

~~b.~~ 2. Prior authorization requirements found in § 1927(d)(5) of the Social Security Act have been met.

~~c.~~ 3. Nonpreferred drugs are those that were reviewed by the Pharmacy and Therapeutics Committee and not included on the preferred drug list (PDL). Nonpreferred drugs will be made available to Medicaid beneficiaries through prior authorization.

~~d.~~ 4. Payment of supplemental rebates may result in a product's inclusion on the PDL.

VA.R. Doc. No. R17-4546; Filed July 3, 2019, 1:40 p.m.

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TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Proposed Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **14VAC5-130. Rules Governing the Filing of Rates for Individual and Certain Group Accident and Sickness Insurance Policy Forms (amending 14VAC5-130-10 through 14VAC5-130-100).**

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Public Hearing Information: A public hearing will be held upon request.

Public Comment Deadline: September 9, 2019.

Agency Contact: Bob Grissom, Chief Insurance Market Examiner, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9152, FAX (804) 371-9944, or email bob.grissom@scc.virginia.gov.

Summary:

The proposed amendments address the statutory revision to the definition of "small employer," clarify rating requirements related to short-term limited duration insurance, clarify premium rates and rating factor requirements, and remove the Uniform Age Rating Curve table and replace it with a reference to the table.

AT RICHMOND, JULY 16, 2019

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2019-00089

Ex Parte: In the matter of Amending Rules Governing the Filing of Rates for Accident and Sickness Insurance

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy also may be found at the Commission's website: http://www.scc.virginia.gov/case.

The Bureau of Insurance ("Bureau") has submitted to the Commission proposed amendments to Rules at Chapter 130 of Title 14 of the Virginia Administrative Code entitled "Rules Governing the Filing of Rates for Accident and Sickness Insurance," which amend the Rules at 14 VAC 5-130-10 through 14 VAC 5-130-100 and repeal forms.

The amendments to the Rules are necessary to address the statutory revision to the definition of "small employer," to clarify rating requirements related to short-term limited duration insurance, and other clarifications and amendments to premium rates and rating factor requirements. In addition, the proposed amendments remove the inclusion of the Uniform Age Rating Curve table and instead provide reference to the table as this information may change at the federal level from time to time. Finally, repeal of the forms as

attachments is being recommended because the data requirements on the forms also change from time to time and for some filings the forms are part of a larger template.

NOW THE COMMISSION is of the opinion that the proposal to amend the Rules at Chapter 130 of Title 14 of the Virginia Administrative Code as submitted by the Bureau should be considered for adoption with a proposed effective date of January 1, 2020.

Accordingly, IT IS ORDERED THAT:

(1) The proposal to amend Chapter 130 of Title 14 of the Virginia Administrative Code and repeal forms, as set out at 14 VAC 5-130-10 through 14 VAC 5-130-100, is attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose amendments to Chapter 130 or the repeal of forms shall file such comments or hearing request on or before September 9, 2019, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2019-00089. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: http://www.scc.virginia.gov/case. All comments shall refer to Case No. INS-2019-00089.

(3) If no written request for a hearing on the proposal to amend rules as outlined in this Order is received on or before September 9, 2019, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may adopt amendments and repeal forms in Chapter 130 of Title 14 of the Virginia Administrative Code as submitted by the Bureau.

(4) The Bureau shall provide notice of the proposal to all carriers licensed in Virginia to write accident and sickness insurance and to all interested persons.

(5) The Commission's Division of Information Resources shall cause a copy of this Order, together with the proposal to amend rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposal on the Commission's website: http://www.scc.virginia.gov/case.

(7) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (4) above.

(8) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and a copy hereof shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Julie S. Blauvelt.

CHAPTER 130
RULES GOVERNING THE FILING OF RATES FOR INDIVIDUAL AND ~~CERTAIN~~ GROUP ACCIDENT AND SICKNESS INSURANCE ~~POLICY FORMS~~

14VAC5-130-10. Purpose.

The purposes of this chapter ~~(14VAC5-130-10 et seq.)~~ are to~~:~~ (i) implement procedures for the filing or filing and approval of rates for individual and ~~certain~~ group accident and sickness insurance policy forms and (ii) establish minimum loss ratios to assure that the benefits provided by such policy forms are or are ~~likely~~ anticipated to be reasonable in relation to the premiums charged.

14VAC5-130-30. Scope.

A. This chapter ~~(14VAC5-130-10 et seq.)~~ applies to ~~all:~~

1. All individual and group accident and sickness insurance ~~policy forms~~ policies, subscriber contracts of ~~hospital, medical or surgical~~ health maintenance organizations or health services plans, dental plans, and optometric plans delivered or issued for delivery in this Commonwealth.

~~B. This chapter also applies to all~~ 2. All health insurance coverage issued in the individual and small group markets.

~~C. This chapter also applies to~~ 3. Individual and group Medicare supplement insurance ~~policy forms~~ policies and group ~~Medicare supplement~~ subscriber contracts of ~~hospital, medical or surgical~~ health maintenance organizations or health services plans providing Medicare supplement coverage delivered or issued for delivery in this Commonwealth.

~~D. For purposes of this chapter, a policy form shall include any rider or endorsement form affecting benefits which is attached to the base policy~~ 4. Individual and group long-term care policies issued before October 1, 2003.

~~E.~~ B. Except as otherwise provided, nothing contained in this chapter shall be construed to relieve ~~a health insurance issuer~~ an insurer of complying with the statutory requirements set forth in Title 38.2 of the Code of Virginia.

14VAC5-130-40. Definitions.

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

"Actuarial value" or "AV" means the anticipated covered medical spending for essential health benefits (EHB) coverage paid by a health plan for a standard population, computed in accordance with the plan's cost-sharing, divided by the total

anticipated allowed charges for EHB coverage provided to a standard population, and expressed as a percentage.

"Anticipated loss ratio" means the ratio of the present value of the future benefits to the present value of the future premiums of a policy form over the entire period for which rates are computed to provide coverage.

"Grandfathered plan" means coverage provided by a health carrier in which an individual was enrolled on March 23, 2010, for as long as such plan maintains that status in accordance with federal law.

"Group health insurance coverage" means in connection with a group health plan, health insurance coverage offered in connection with such plan.

"Group health plan" means an employee welfare benefit plan (as defined in § 3(1) of the Employee Retirement Income Security Act of 1974 (29 USC § 1002(1)), to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

~~"Group Medicare supplement policy" means a group policy of accident and sickness insurance, or a group subscriber contract of hospital, medical or surgical plans, covering individuals who are entitled to have payment made under Medicare, which is designed primarily to supplement Medicare by providing benefits for payment of hospital, medical or surgical expenses, or is advertised, marketed or otherwise purported to be a supplement to Medicare. Such term does not include:~~

~~1. A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or~~

~~2. A policy or contract of any professional, trade or occupational association for its members or former retired members, or combination thereof, if such association:~~

~~a. Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;~~

~~b. Has been maintained in good faith for purposes other than obtaining insurance; and~~

~~c. Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members.~~

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a ~~MEWA~~ multiple employer welfare arrangement, or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by ~~a health insurance issuer~~ an insurer.

~~"Health insurance issuer" means an insurance company, or insurance organization (including a health maintenance organization) that is licensed to engage in the business of insurance in this Commonwealth and that is subject to the laws of this Commonwealth that regulate insurance within the meaning of § 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 USC § 1144(b)(2)). Such term does not include a group health plan.~~

"Health maintenance organization" means~~: 1. A federally qualified health maintenance organization; 2. An organization recognized under the laws of this Commonwealth as a health maintenance organization; or 3. A similar organization regulated under the laws of this Commonwealth for solvency in the same manner and to the same extent as such a health maintenance organization~~ any person who undertakes to provide or arrange for one or more health care plans as defined in § 38.2-4300 of the Code of Virginia.

"Health system" means an organization that consists of either (i) at least one hospital plus at least one group of physicians or (ii) more than one group of physicians.

"Individual accident and sickness insurance" means insurance against loss resulting from sickness or from bodily injury or death by accident or accidental means or both when sold on an individual rather than group basis.

"Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, that includes a health benefit plan provided to individuals through a trust arrangement, association, or other discretionary group that is not an employer plan, but does not include coverage defined as "excepted benefits" in § 38.2-3431 of the Code of Virginia or short-term limited duration insurance. Student health insurance coverage shall be considered a type of individual health insurance coverage.

"Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan. Coverage that would be regulated as

individual market coverage if it were not sold through an association is individual market coverage.

~~"Individual Medicare supplement policy" means an individual policy of accident and health insurance or a subscriber contract of hospital, medical or surgical plans, offered to individuals who are entitled to have payment made under Medicare, which is designed primarily to supplement Medicare by providing benefits for hospital, medical or surgical expenses, or is advertised, marketed or otherwise purported to be a supplement to Medicare.~~

"Insurer" means a person licensed to issue or that issues any insurance policy in this Commonwealth.

"Medicare supplement policy" means an individual or group accident and sickness insurance policy or certificate, or a health maintenance organization subscription contract or evidence of coverage, designed primarily to supplement Medicare by providing benefits for payment of hospital, medical, or surgical expenses, or is advertised, marketed or otherwise purported to be a supplement to Medicare. For group policies, the term does not include a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or a combination of employees and labor organizations, for employees, former employees, or combination of employees and labor organizations or for members or former members, or combination thereof, of the labor organizations.

"Member" means an enrollee, insured, member, subscriber, policyholder, certificate holder, or other individual who is participating in a health benefit plan or covered under ~~health~~ accident and sickness insurance.

"Policy" means an insurance policy, form, contract, certificate of insurance, evidence of coverage, subscriber contract or other similar document. A policy shall include any rider or endorsement affecting benefits attached to the base policy.

"Premium" means all moneys paid by an employer, eligible employee, or member as a condition of coverage from ~~a health insurance issuer~~ an insurer, including fees and other contributions associated with a health benefit plan.

"Qualified actuary" means a member of the American Academy of Actuaries, or other individual qualified as described in the American Academy of Actuaries' U.S. Qualification Standards and the Code of Professional Conduct to render statements of actuarial opinion in the applicable area of practice.

"Rate" or "premium rate" means any rate of premium, policy fee, membership fee, or any other charge made by an insurer for or in connection with a contract or policy of insurance. "Rate" shall not include a membership fee paid to become a member of an organization or association, one of the benefits of which is the purchase of insurance coverage.

"SERFF" means the National Association of Insurance Commissioner's (NAIC) System for Electronic Rate and Form Filing, or its successor.

"Small employer" ~~means in connection with a group health plan or health insurance coverage with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. Effective January 1, 2016, "small employer" means in connection with a group health plan or health insurance coverage with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year~~ has the same meaning as in § 38.2-3431 of the Code of Virginia.

"Small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a small employer. Coverage that would be regulated as small group market coverage if it were not sold through an association is small group market coverage.

"Student health insurance coverage" means a type of individual health insurance coverage offered in the individual market that is provided pursuant to a written agreement between an institution of higher education, as defined by the Higher Education Act of 1965 (Public Law No. 89-329), and a health carrier and provided to students enrolled in that institution of higher education and their dependents, and that does not make health insurance coverage available other than in connection with enrollment as a student or as a dependent of a student in the institution of higher education, and does not condition eligibility for health insurance coverage on any health status-related factor related to a student or a dependent of the student.

14VAC5-130-50. General rules on rate filing; experience records and data.

A. Every policy, rider, or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not require a change in the rate. Any subsequent addition to or change in rates applicable to such policy, rider, or endorsement form shall also be filed.

B. Each rate submission shall include an actuarial memorandum describing the basis on which rates and rating factors were determined and shall ~~indicate and~~ describe and provide the calculation of the anticipated loss ratio. Except for ~~coverage issued in the~~ individual and small employer group ~~market~~ health insurance coverage, interest at a rate consistent with that assumed in the original determination of premiums~~,~~ shall be used in the calculation of this loss ratio. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary's knowledge and judgment, the rate filing is in compliance with the applicable laws and regulations of this

Commonwealth, and that the benefits are reasonable in relation to the premiums.

C. ~~Health insurance issuers~~ Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit. Separate data may be maintained for each rider or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. The data shall be for each calendar year of experience since the year the form was first issued.

D. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:

1. Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.

2. Experienced and projected trends relative to the kind of coverage, ~~e.g.,~~ for example, inflation in medical expenses, economic cycles affecting disability income experience.

3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations.

4. The mix of business by risk classification.

E. Rates for ~~coverage issued in the~~ individual or small employer group ~~markets~~ health insurance coverage are required to meet the following:

1. Premium rates with respect to a particular plan or coverage may only vary by:

a. Whether the plan or coverage covers an individual or family;

b. Rating area, as may be established by the commission;

c. Age, consistent with the default Uniform Age Rating Curve ~~table below~~ as specified in guidance by the federal Secretary of Health and Human Services in accordance with 45 CFR 147.102 (a)(1)(iii); and

d. Tobacco use, except that the rate shall not vary by more than 1.5 to 1. Employees of a small employer may avoid this surcharge by participating in a wellness program that complies with § 2705(j) of the Public Health Service Act (42 USC § 300gg-4).

~~Uniform Age Rating Curve~~

~~AGE~~	~~PREMIUM RATIO~~	~~AGE~~	~~PREMIUM RATIO~~	~~AGE~~	~~PREMIUM RATIO~~
~~0-20~~	~~0.635~~	~~35~~	~~1.222~~	~~50~~	~~1.786~~
~~21~~	~~1.000~~	~~36~~	~~1.230~~	~~51~~	~~1.865~~
~~22~~	~~1.000~~	~~37~~	~~1.238~~	~~52~~	~~1.952~~
~~23~~	~~1.000~~	~~38~~	~~1.246~~	~~53~~	~~2.040~~
~~24~~	~~1.000~~	~~39~~	~~1.262~~	~~54~~	~~2.135~~
~~25~~	~~1.004~~	~~40~~	~~1.278~~	~~55~~	~~2.230~~
~~26~~	~~1.024~~	~~41~~	~~1.302~~	~~56~~	~~2.333~~
~~27~~	~~1.048~~	~~42~~	~~1.325~~	~~57~~	~~2.437~~
~~28~~	~~1.087~~	~~43~~	~~1.357~~	~~58~~	~~2.548~~
~~29~~	~~1.119~~	~~44~~	~~1.397~~	~~59~~	~~2.603~~
~~30~~	~~1.135~~	~~45~~	~~1.444~~	~~60~~	~~2.714~~
~~31~~	~~1.159~~	~~46~~	~~1.500~~	~~61~~	~~2.810~~
~~32~~	~~1.183~~	~~47~~	~~1.563~~	~~62~~	~~2.873~~
~~33~~	~~1.198~~	~~48~~	~~1.635~~	~~63~~	~~2.952~~
~~34~~	~~1.214~~	~~49~~	~~1.706~~	~~64 and older~~	~~3.000~~

2. A premium rate shall not vary by any other factor not described in this subsection.

3. With respect to family coverage, the rating variations permitted in this subsection shall be applied based on the portion of the premium that is attributable to each family member covered under the plan. With respect to family members ~~under age~~ younger than 21 years of age, the premiums for no more than the three oldest covered children shall be taken into account in determining the total family premium.

4. The premium charged shall not be adjusted more frequently than annually, except that the premium rate may be changed to reflect changes to (i) the family composition of the member, (ii) the coverage requested by the member, or (iii) the geographic location of the member.

5. Premium rates for student health insurance coverage may be based on school-specific community rating and are exempt from subdivisions 1 through 4 of this subsection.

F. If the proposed area rate factors set forth in a rate filing for individual or small employer group health insurance coverage by an insurer for a rating area exceed by more than 15% the weighted average of the proposed area rate factors among all rating areas in which the insurer offers health benefit plans in that market, then:

1. The insurer's rate filing shall include in a publicly available and unredacted form:

a. A comparison of the area rate factor for individual and small employer group health benefit plans that utilize the

same provider network and provider reimbursement levels of the health benefit plans that are subject to the filing;

b. A detailed disclosure of the area rate factor methodology, which shall include any third-party resources or representations from a person other than the signing actuary, on which the signing actuary relied, provided that disclosure of third-party resources shall address that the source data only reflects differences in unit cost and provider practice patterns; and

c. To the extent that the insurer is deriving any area rate factor from experience data, by rating area for the experience period used:

(1) The (i) total enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; and (vi) loss ratio for each of their rating areas in that market; and

(2) Aggregated incurred claims for any health system exceeding 30% of total incurred claims for that rating area in that market.

2. The commission shall hold a public hearing on the proposed premium rates prior to the approval of the rate filing.

3. The commission shall not approve the proposed rate filing if (i) a variance in area rate factors, indexed to the same rating region for both the individual and small group markets, of 15% or more exists between health benefit plans an insurer intends to offer in the individual market and health benefit plans intended to be offered in the small group market, when those plans utilize the same provider network and provider reimbursement levels and (ii) the methodologies used to calculate the area rate factors are different between the two markets.

G. Beginning for plan year 2020, an insurer with an approved rate filing that contains at least one area rate factor that exceeds by more than 25% the weighted average of the area rate factors among all rating areas in a market in which the insurer offers individual or small employer group health insurance coverage shall file with the commission for each calendar quarter during that plan year a report that provides, for each rating area within the market in which the insurer operates, the plan's (i) enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; (vi) loss ratio; and (vii) aggregate incurred claims, for each health system exceeding 25% of total incurred claims for that rating area. The insurer shall make each such quarterly report publicly available, without redaction, not later than 45 days after the end of the calendar quarter.

H. The commission may investigate and determine whether a rate is excessive, unfairly discriminatory, or unreasonable in relation to the benefits provided. In the event of disapproval or withdrawal of approval by the commission of a rate submission, ~~a health insurance issuer~~ an insurer may proceed ~~as indicated~~ using the process described in § 38.2-1926 of the Code of Virginia.

14VAC5-130-60. Filing of rates for a new policy form.

A. Each rate submission shall include~~:~~ (i) the applicable policy or certificate form, application, and endorsements required by § 38.2-316 of the Code of Virginia, (ii) a rate sheet, (iii) an actuarial memorandum, and (iv) all information required in SERFF. ~~The Unified Rate Review Template shall also be filed for coverage issued in the individual or small group markets, except for student health insurance coverage.~~

B. The actuarial memorandum shall contain the following information:

1. A description of the type of policy ~~or coverage~~, including benefits, renewability, general marketing method, and issue age limits.

2. A description of how rates and rating factors were determined, including the ~~general~~ description and source of each assumption used.

3. The ~~estimated~~ expected average annual premium per policy and per anticipated member.

4. The anticipated loss ratio and a description of how it was calculated.

5. The minimum anticipated loss ratio presumed reasonable in this chapter, as specified in 14VAC5-130-65.

6. If the anticipated loss ratio in subdivision 4 of this subsection is less than the minimum loss ratio in subdivision 5 of this subsection, supporting documentation for the use of such premiums shall also be included.

~~7. For coverage issued in the individual or small group market, a certification by a qualified actuary of the actuarial value of each plan of benefits included and the AV calculation summary.~~

~~8.~~ 7. A certification by a qualified actuary that, to the best of the actuary's knowledge and judgment, the rate filing is in compliance with the applicable laws and regulations of this Commonwealth and the premiums are reasonable in relation to the benefits provided.

8. For individual or small employer group health insurance coverage, a certification by a qualified actuary to include (i) the methodology used to calculate the AV metal value for each plan; (ii) the appropriateness of the essential health benefit portion of premium upon which advanced

payment of premium tax credits are based; (iii) the development of the index rate in accordance with federal regulations and the development of plan specific premium rates using allowable modifiers to the index rate; and (iv) the geographic rating factors, which should reflect differences only in the costs of delivery (which can include unit cost and provider practice pattern differences) and not differences in population morbidity by geographic area.

9. For student health insurance coverage, a certification by a qualified actuary to include the methodology used to calculate an AV level of coverage that meets a minimum 60%.

14VAC5-130-65. Reasonableness of benefits in relation to initial premiums.

A. Benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio of the policy form, including riders and endorsements, is at least as great as specified ~~below~~ in this subsection:

1. If the expected average annual premium is at least $200 but less than $1,000:

Type of Coverage	Renewal Clause				
	OR	CR	GR	NC	Other
Hospital Confinement Indemnity	~~60%~~ n/a	~~55%~~ n/a	55%	50%	~~60%~~ n/a
Disability Income Protection, Accident Only, Specified Disease and Other, whether paid on an expense incurred or indemnity basis	60%	55%	50%	45%	60%
Short-term Limited Duration	n/a	n/a	n/a	n/a	60%

Definitions of renewal clause:

OR - Optionally renewable: individual policy renewal is at the option of the insurance company.

CR - Conditionally renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health or renewal can be declined on a geographic territory basis.

GR - Guaranteed renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

NC - Noncancellable: renewal cannot be declined nor can rates be revised by the insurance company.

Other - Any other renewal or nonrenewal clauses ~~(e.g., short term nonrenewable policies)~~.

2. If the expected average annual premium is $100 or more but less than $200, subtract five percentage points from the numbers in the table in subdivision 1 of this subsection.

3. If the expected average annual premium is less than $100, subtract 10 percentage points from the numbers in the table in subdivision 1 of this subsection.

4. If the expected average annual premium is $1,000 or more, add five percentage points to the numbers in the table in subdivision 1 of this subsection.

5. ~~Notwithstanding subdivision 1 of this subsection,~~ For individual or group Medicare supplement policies, ~~shall be expected to return to policyholders in the form of aggregate benefits under the policy at least 75% of the aggregate amount of premiums collected~~ the loss ratios are identified in 14VAC5-170-120 A.

~~6. Notwithstanding subdivisions 1 and 5 of this subsection, for Medicare supplement policies issued prior to July 30, 1992, as a result of solicitation of individuals through the mails or by mass media advertising, which shall include both print and broadcast advertising, shall be expected to return to policyholders in the form of aggregate benefits under the policy at least 60% of the aggregate amount of premiums collected.~~

~~7. Notwithstanding subdivision 1 of this subsection, for Medicare supplement policies issued prior to July 30, 1992, sold on an individual rather than group basis shall be expected to return to policyholders in the form of aggregate benefits under the policy at least 60% of the aggregate amount of premiums collected.~~

~~8.~~ 6. Notwithstanding subdivisions 1 through 4 of this subsection, all individual health insurance coverage ~~issued in the individual market~~ shall be originally priced to meet a minimum 75% loss ratio and, except for student health insurance coverage~~,~~ such coverage shall be guaranteed renewable or noncancellable.

~~9.~~ 7. Notwithstanding subdivisions 1 through 4 of this subsection, all small employer group health insurance coverage ~~issued in the small group market~~ shall be originally priced to meet a minimum 75% loss ratio and shall be guaranteed renewable or noncancellable.

The above anticipated loss ratio standards do not apply to a type of coverage where such standards are in conflict with specific statutes or regulations.

B. The expected average annual premium per policy and per member shall be computed by the ~~health insurance issuer~~ insurer based on an anticipated distribution of business by all

applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation).

14VAC5-130-70. Filing a rate revision.

A. Each rate revision submission shall include~~:~~ (i) a new rate sheet~~;~~, (ii) an actuarial memorandum~~;~~, and (iii) all information required in SERFF. ~~The Unified Rate Review Template shall be filed for coverage issued in the individual or small group markets, except for student health insurance coverage.~~

B. The actuarial memorandum shall contain the following information:

1. A description of the type of policy, including benefits, renewability, issue age limits, and if applicable, whether the policy includes grandfathered or nongrandfathered plans or both.

2. The scope and reason for the premium or rate revision.

3. A comparison of the revised premiums with the current ~~premium scale~~ premiums, including all percentage rate changes and any rating factor changes.

4. A statement of whether the revision applies only to new business, only to in-force business, or to both.

5. The ~~estimated~~ expected average annual premium per policy and per member, before and after the proposed rate revision. Where different changes by rating classification are being requested, the rate filing shall also include (i) the range of changes and (ii) the average overall change with a detailed explanation of how the change was determined.

6. ~~Except for coverage issued in the small group market, historical~~ Historical and projected experience, ~~submitted on Form 130-A,~~ including:

a. Virginia and, if applicable, national or manual historical experience as specified in 14VAC5-130-50 C and projections for future experience;

b. A statement indicating the basis for determining the rate revision (Virginia, national or manual, or blended);

c. If the basis is blended, the credibility factor assigned to the ~~national~~ Virginia experience;

d. Earned Premiums (EP), Incurred Benefits (IB), Increase in Reserves (IR), and Incurred Loss Ratio = (IB + IR) ÷ (EP); and

e. Any other available data the ~~health insurance issuer~~ insurer may wish to provide. The additional data may include, if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates; substitution of actual claim run-offs for claim reserves and liabilities; accumulations of experience funds; substitution of net level policy reserves for preliminary term policy reserves; adjustments of premiums to an annual mode basis; or other adjustments or schedules suited to the form and to the records of the company. All additional data must be reconciled, as appropriate, to the required data.

7. Details and dates of all past rate revisions, including the annual rate revisions members will experience as a result of this filing. For ~~companies~~ insurers revising rates only annually, the rate revision should be identical to the current submission. For ~~companies~~ insurers that have had more frequent rate revisions, the annual revision should reflect the compounding impact of all such revisions for the previous 12 months.

8. A description of how revised rates were determined, including the general description and source of each assumption ~~on Form 130A~~. For claims, provide historical and projected claims by major service category for both cost and utilization ~~on Form 130B~~.

9. If the rate revision applies to new business, provide the anticipated loss ratio and a description of how it was calculated.

10. If the rate revision applies to in-force business:

a. The anticipated loss ratio and a description of how it was calculated; and

b. The estimated cumulative loss ratio, historical and anticipated, and a description of how it was calculated.

11. The loss ratio that was originally anticipated for the policy.

12. If 9, 10a, or 10b is less than 11, supporting documentation for the use of such premiums or rates.

13. The current number of Virginia, and national if applicable, members to which the revision applies for the most recent month for which such data is available, and either premiums in force, premiums earned, or premiums collected for such members in the year immediately prior to the filing of the rate revision.

14. Certification by a qualified actuary that, to the best of the actuary's knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this Commonwealth and the premiums are reasonable in relation to the benefits provided.

15. For ~~coverage issued in the~~ individual or small employer group ~~markets~~ health insurance coverage, a certification by a qualified actuary ~~of the actuarial value of each plan of benefits included and the AV calculation summary~~ to include (i) the methodology used to calculate the AV metal value for each plan; (ii) the appropriateness of the essential

health benefit portion of premium upon which advanced payment of premium tax credits are based; (iii) the development of the index rate in accordance with federal regulations and the development of plan specific premium rates using allowable modifiers to the index rate; and (iv) the geographic rating factors, which should reflect differences only in the costs of delivery (which can include unit cost and provider practice pattern differences) and not differences in population morbidity by geographic area.

16. For student health insurance coverage, a certification by a qualified actuary to include the methodology used to calculate an AV level of coverage that meets a minimum 60%.

14VAC5-130-75. Reasonableness of benefits in relation to revised premiums.

A. For individual accident and sickness insurance~~, group~~ that is "excepted benefits" as defined in § 38.2-3431 of the Code of Virginia and Medicare supplement insurance, ~~and coverage issued in the individual market,~~ with respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided that both subdivisions 1 and 2 of this subsection shall be at least as great as the standards in 14VAC5-130-70 B 11.

1. The anticipated loss ratio over the entire period for which the revised rates are computed to provide coverage; and

2. The ratio of (a) to (b) where (a) is the sum of the accumulated benefits, from the original effective date of the form to the effective date of the revision, and the present value of future benefits, and (b) is the sum of the accumulated premiums from the original effective date of the form to the effective date of the revision and the present value of future premiums.

Present values shall be taken over the entire period for which the revised rates are computed to provide coverage. Accumulated benefits and premiums shall include an explicit estimate of benefits and premiums from the last accounting date to the effective date of the revision. Interest, at a rate consistent with that assumed in the original determination of premiums shall be used in the calculation of this loss ratio.

B. For ~~coverage issued in the~~ individual and small employer group ~~market~~ health insurance coverage or short-term limited duration insurance, the anticipated loss ratio over the entire period for which the revised rates are computed to provide coverage shall be at least as great as the standards in 14VAC5-130-70 B 11.

~~C. If a health insurance issuer wishes to charge a premium for policies issued on or after the effective date of the rate revision that is different from the premium charged for such policies issued prior to the revision date, then with respect to policies issued prior to the effective date of the revision the requirements of subsection A of this section must be satisfied, and with respect to policies issued on and after the effective date of the revision, the standards are the same as in 14VAC5-130-65, except that the average annual premium shall be determined based on an actual rather than an anticipated distribution of business.~~

14VAC5-130-81. Risk pools and index rate.

A. This section shall only apply to individual or small employer group health insurance coverage, except for grandfathered plans and student health insurance coverage.

~~A health insurance issuer~~ B. An insurer shall consider the claims experience of all ~~enrollees in all health benefit plans~~ individual health insurance coverage members, other than those in grandfathered plans and student health insurance coverage, ~~in the individual market~~ to be members of a single risk pool.

~~B. A health insurance issuer~~ C. An insurer shall consider the claims experience of all ~~enrollees in all health plans~~ small employer group health insurance coverage members, other than those in grandfathered plans, ~~in the small group market~~ to be members of a single risk pool.

~~C.~~ D. Each plan year or policy year, as applicable, ~~a health insurance issuer~~ an insurer shall establish an index rate based on the total combined claims costs for providing essential health benefits within the single risk pool ~~of the individual or small group market~~. The index rate may be adjusted on a market-wide basis based on the total expected market-wide payments and charges under the risk adjustment and reinsurance programs in this Commonwealth and the health benefit exchange user fees. The premium rate for all of the ~~health insurance issuer's~~ insurer's plans shall use the applicable index rate, as adjusted in accordance with subsection ~~D~~ E of this section.

~~D. A health insurance issuer~~ E. An insurer may vary premium rates for a particular plan from its index rate for a relevant state market based only on the following actuarially justified plan-specific factors in accordance with 45 CFR 156.80 (d)(2):

1. ~~Cost sharing~~ Actuarial value and cost-sharing design of the plan.

2. The plan's provider network, delivery system characteristics, and utilization management practices.

3. ~~The benefits~~ Benefits provided under the plan that are in addition to the essential health benefits. ~~These additional benefits shall be pooled with similar benefits within a single risk pool and the claims experience from those benefits shall be utilized to determine rate variations for plans that offer those benefits in addition to essential health benefits.~~

4. Administrative costs, excluding health benefit exchange user fees.

5. ~~With respect to~~ Only catastrophic plans~~,~~ may be adjusted for the expected impact of the specific eligibility categories for those plans.

14VAC5-130-90. Monitoring of experience.

A. The commission may prescribe procedures for the effective monitoring of actual experience under any form subject to this chapter.

B. The commission may request information subsequent to approval of a policy form, rate, or rate revision so that it may determine whether premium rates are reasonable in relation to the benefits provided as specified herein in 14VAC5-130-65 and 14VAC5-130-75.

C. If the commission finds that the premium rate filed in accordance with this chapter is or will not meet the originally filed and approved loss ratio, the commission may require appropriate rate adjustments, premium refunds or premium credits as deemed necessary for the coverage to conform with the minimum loss ratio standards set forth in 14VAC5-130-65, and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current rates by the ~~health insurance issuer~~ insurer for the coverage. The commission may take into consideration any previous or expected premium refunds or credits. Detailed supporting documents will be required as necessary to justify the adjustment.

14VAC5-130-100. Severability.

If any provision of this chapter ~~(14VAC5-130-10 et seq.)~~ or the application ~~thereof~~ to any person or circumstance is for any reason held to be invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected ~~thereby~~.

~~FORMS (14VAC5-130)~~

~~Form 130A, Template for data supporting individual rate revision filings (eff. 7/13).~~

~~Form 130B, Trend analysis details (eff. 7/13).~~

~~Unified rate review template (http://www.serff.com/plan_management_data_templates.htm).~~

VA.R. Doc. No. R19-5487; Filed July 16, 2019, 12:06 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Final Regulation

REGISTRAR'S NOTICE: The Board of Dentistry is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Dentistry will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC60-21. Regulations Governing the Practice of Dentistry (amending 18VAC60-21-230).**

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

Effective Date: September 4, 2019.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4437, FAX (804) 527-4428, or email sandra.reen@dhp.virginia.gov.

Summary:

Pursuant to Chapter 290 of the 2019 Acts of Assembly, the amendments conform the regulation to § 54.1-2701 of the Code of Virginia relating to registration for volunteer practice by dentists licensed in another state. The amendments (i) eliminate the requirement the nonprofit at which the volunteer work will take place be "all volunteer," (ii) reduce to five the number of days within which application for registration must be made, and (iii) remove a requirement for a notarized statement from the nonprofit.

18VAC60-21-230. Qualifications for a restricted license; temporary permit or license.

A. Temporary permit for public health settings. A temporary permit shall be issued only for the purpose of allowing dental practice in a dental clinic operated by a state agency or a Virginia charitable organization as limited by § 54.1-2715 of the Code.

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.

2. A temporary permit will not be renewed unless the holder shows that extraordinary circumstances prevented the holder from taking the licensure examination during the term of the temporary permit.

B. Faculty license. A faculty license shall be issued for the purpose of allowing dental practice as a faculty member of an accredited dental program when the applicant meets the entry requirements of § 54.1-2713 of the Code.

1. A faculty license shall remain valid only while the holder is serving on the faculty of an accredited dental program in the Commonwealth. When any such license holder ceases to continue serving on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of employment.

2. The dean of the dental school shall notify the board within five working days of such termination of employment.

C. Restricted license to teach for foreign dentists. The board may issue a restricted license to a foreign dentist to teach in an accredited dental program in the Commonwealth in accordance with provisions of § 54.1-2714 of the Code.

D. Temporary licenses to persons enrolled in advanced dental education programs. A dental intern, resident, or post-doctoral certificate or degree candidate shall obtain a temporary license to practice in Virginia in accordance with provisions of § 54.1-2711.1 of the Code.

1. The applicant shall submit a recommendation from the dean of the dental school or the director of the accredited advanced dental education program specifying the applicant's acceptance as an intern, resident, or post-doctoral certificate or degree candidate. The beginning and ending dates of the internship, residency, or post-doctoral program shall be specified.

2. The temporary license permits the holder to practice only in the hospital or outpatient clinics that are recognized parts of an advanced dental education program.

3. The temporary license may be renewed annually by June 30, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited advanced dental education program.

4. The temporary license holder shall be responsible and accountable at all times to a licensed dentist, who is a member of the staff where the internship, residency, or post-doctoral program is taken. The holder is prohibited from practicing outside of the advanced dental education program.

5. The temporary license holder shall abide by the accrediting requirements for an advanced dental education program as approved by the Commission on Dental Accreditation of the American Dental Association.

E. Restricted volunteer license.

1. In accordance with § 54.1-2712.1 of the Code, the board may issue a restricted volunteer license to a dentist who:

a. Held an unrestricted license in Virginia or another ~~U.S.~~ United States jurisdiction as a licensee in good standing at the time the license expired or became inactive;

b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;

c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia;

d. Has not failed a clinical examination within the past five years; and

e. Has had at least five years of clinical practice.

2. A person holding a restricted volunteer license under this section shall:

a. Only practice in public health or community free clinics that provide dental services to underserved populations;

b. Only treat patients who have been screened by the approved clinic and are eligible for treatment;

c. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and

d. Not be required to complete continuing education in order to renew such a license.

3. The restricted volunteer license shall specify whether supervision is required, and if not, the date by which it will be required. If a dentist with a restricted volunteer license issued under this section has not held an active, unrestricted license and been engaged in active practice within the past five years, he shall only practice dentistry and perform dental procedures if a dentist with an unrestricted Virginia license, volunteering at the clinic, reviews the quality of care rendered by the dentist with the restricted volunteer license at least every 30 days. If supervision is required, the supervising dentist shall directly observe patient care being provided by the restricted volunteer dentist and review all patient charts at least quarterly. Such supervision shall be noted in patient charts and maintained in accordance with 18VAC60-21-90.

4. A restricted volunteer license granted pursuant to this section shall expire on June 30 of the second year after its issuance or shall terminate when the supervising dentist withdraws his sponsorship.

5. A dentist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.

F. Registration for voluntary practice by out-of-state licensees. Any dentist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, ~~all volunteer,~~ nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least ~~15~~ five days prior to engaging in such practice;

2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license; and

3. Provide the name of the nonprofit organization, and the dates and location of the voluntary provision of services~~; and 4. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code~~.

VA.R. Doc. No. R19-6034; Filed July 15, 2019, 2:34 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Dentistry is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Dentistry will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC60-25. Regulations Governing the Practice of Dental Hygiene (amending 18VAC60-25-100).**

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

Effective Date: September 4, 2019.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4437, FAX (804) 527-4428, or email sandra.reen@dhp.virginia.gov.

Summary:

Pursuant to Chapter 431 of the 2019 Acts of Assembly, the amendment removes an age restriction for patients to whom hygienists may administer oral fluoride varnish.

18VAC60-25-100. Administration of controlled substances.

A. A licensed dental hygienist may:

1. Administer topical oral fluoride varnish ~~to children aged six months to three years~~ under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408 of the Code;

2. Administer topical Schedule VI drugs, including topical oral fluorides, topical oral anesthetics, and topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions pursuant to subsection J of § 54.1-3408 of the Code; and

3. If qualified in accordance with subsection B or C of this section, administer Schedule VI nitrous oxide/inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia parenterally under the indirect supervision of a dentist.

B. To administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of nitrous oxide offered by a CODA accredited dental or dental hygiene program, which includes a minimum of eight hours in didactic and clinical instruction in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation;

c. Equipment and techniques used for administration of nitrous oxide;

d. Neurophysiology of nitrous oxide administration;

e. Pharmacology of nitrous oxide;

f. Recordkeeping, medical, and legal aspects of nitrous oxide;

g. Adjunctive uses of nitrous oxide for dental patients; and

h. Clinical experiences in administering nitrous oxide, including training with live patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.

C. To administer local anesthesia parenterally to patients 18 years of age or older, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of local anesthesia that is offered by a CODA accredited dental or dental hygiene program, which includes a minimum of 28 didactic and clinical hours in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation and recordkeeping;

c. Neurophysiology of local anesthesia;

d. Pharmacology of local anesthetics and vasoconstrictors;

e. Anatomical considerations for local anesthesia;

f. Techniques for maxillary infiltration and block anesthesia;

g. Techniques for mandibular infiltration and block anesthesia;

h. Local and systemic anesthetic complications;

i. Management of medical emergencies; and

j. Clinical experiences in administering local anesthesia injections on patients.

2. Successfully complete an examination with a minimum score of 75% in the parenteral administration of local anesthesia given by the accredited program.

D. A dental hygienist who holds a certificate or credential issued by the licensing board of another jurisdiction of the United States that authorizes the administration of nitrous oxide/inhalation analgesia or local anesthesia may be authorized for such administration in Virginia if:

1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or

2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.

E. A dentist who provides direction for the administration of nitrous oxide/inhalation analgesia or local anesthesia shall ensure that the dental hygienist has met the qualifications for such administration as set forth in this section.

VA.R. Doc. No. R19-6024; Filed July 15, 2019, 2:35 p.m.

BOARD OF SOCIAL WORK

Notice of Objection to Fast-Track Rulemaking Action

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the Board of Social Work has filed a notice of objection to the fast-track rulemaking action published in 35:22 VA.R. 2623-2627 June 24, 2019. If the board proceeds with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, the initial publication of the fast-track regulation will serve as the Notice of Intended Regulatory Action.

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work (amending 18VAC140-20-10, 18VAC140-20-50).**

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

The Board of Social Work has filed a notice of objection to the fast-track rulemaking action for 18VAC140-20. Regulations Governing the Practice of Social Work. The fast-track regulation was published in Volume 35, Issue 22, pages 2623-2627 of the Virginia Register of Regulations, on June 24, 2019. A 30-day public comment period was provided, and public comment was received through July 24, 2019.

The fast-track regulation was intended to (i) clarify that the definition of "face-to-face" includes the contact a supervisee and a client must have, (ii) reduce the number of hours of continuing education required to become an approved supervisor, and (iii) eliminate the requirement that those hours must be repeated every five years to remain an approved supervisor.

The board received more than the requisite 10 objections to the amendments. Due to the objections, the board has discontinued using the fast-track rulemaking process. The board will decide whether to proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (APA) or withdraw the action.

If the board decides to move forward with the standard APA process, in accordance with § 2.2-4012.1 of the Code of Virginia, the publication on June 24, 2019, will serve as a Notice of Intended Regulatory Action.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4406, FAX (804) 527-4435, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. R19-5777; Filed July 22, 2019, 9:14 a.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 19VAC30-70-6, 19VAC30-70-7, 19VAC30-70-9, 19VAC30-70-9.1, 19VAC30-70-10, 19VAC30-70-20, 19VAC30-70-25, 19VAC30-70-40, 19VAC30-70-50, 19VAC30-70-80, 19VAC30-70-90, 19VAC30-70-110 through 19VAC30-70-160, 19VAC30-70-180, 19VAC30-70-210, 19VAC30-70-260, 19VAC30-70-300, 19VAC30-70-360, 19VAC30-70-450, 19VAC30-70-490, 19VAC30-70-500, 19VAC30-70-510, 19VAC30-70-520, 19VAC30-70-530, 19VAC30-70-550, 19VAC30-70-580, 19VAC30-70-630, 19VAC30-70-670; adding 19VAC30-70-9.2, 19VAC30-70-9.3, 19VAC30-70-10.1; repealing 19VAC30-70-30, 19VAC30-70-31, 19VAC30-70-32).**

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

Effective Date: September 1, 2019.

Agency Contact: Lieutenant Matthew T. Patterson, Assistant Safety Officer Motor Vehicle Inspection, Department of State Police, P.O. Box 27472, Richmond, VA 23261, telephone (804) 278-5305, or email matthew.patterson@vsp.virginia.gov.

Summary:

The amendments (i) enact changes to the Motor Vehicle Safety Inspection Regulations that were mandated by legislation enacted during the 2019 Session of the General Assembly, including adding 19VAC30-70-9.2, 19VAC30-70-9.3, and 19VAC30-70-10.1 and repealing sections 19VAC30-70-30, 19VAC30-70-31, and 19VAC30-70-32, and (ii) make technical corrections.

19VAC30-70-6. Class IV offenses.

A. Class IV offenses are those violations considered so critically important to the integrity and credibility of the Official Annual Motor Vehicle Inspection Program as to require immediate and severe disciplinary action. Any Class IV offense is grounds for suspension or revocation. The following violations and actions shall be considered a Class IV offense:

1. Loss of driver's license, with the exception of an administrative court-ordered suspension that does not exceed seven days.

2. Obvious usage of either alcohol or drugs by an employee associated with the Annual Motor Vehicle Inspection Program.

3. Loss of inspection stickers through neglect, or subsequent violations of subsection K of 19VAC30-70-10.

4. Improper use of inspection supplies, such as placement on a vehicle that has not been inspected or failure to affix the inspection sticker to the vehicle in its proper location, after inspection.

5. Falsifying inspection receipts or inspection records.

6. Giving false information during an inspection complaint investigation.

7. Performing ~~either~~ an inspection ~~or inspections~~ at a station without authority from the safety officer.

8. The arrest of any person associated with the inspection program for a criminal offense or the institution of civil action 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 ~~immediate suspension~~ inactive inspector or station status until final court disposition. A finding other than acquittal for any criminal offense ~~or a~~, civil judgment, or bankruptcy may result in a suspension or revocation of the inspector or station appointment, or both.

9. The use of profanity or verbal abuse by station owners, managers, or safety inspectors toward each other or directed at customers presenting their vehicles for inspection.

10. Illegal use of inspection supplies such as stealing, selling, mailing or giving away, or the attempt thereof.

11. Nonpayment of inspection fees.

12. Conduct displayed by station owners, managers, or safety inspectors that may be rude or discourteous, or the use of profanity or verbal abuse directed at or toward Safety Division Personnel.

13. Failure of any person connected with the inspection program to notify their supervising trooper or Safety Division Area Office within 72 hours of an arrest for a criminal offense or the institution of civil action.

14. Any misuse or falsification of the automated Motor Vehicle Inspection Program (MVIP) system through neglect, or intentionally allowing an assigned password or personal identification number (PIN) to be used by other persons.

15. Willfully obtaining computer services without proper authority from the safety officer.

16. Failure to adequately explain and differentiate, both orally and in writing, to customers what repairs are necessary to pass the safety inspection and those repairs that are only recommended. Each station shall explicitly (not fine print) convey to each customer when his vehicle will be examined beyond the parameters of the state inspection and empower the customer with the ability to decline this service.

17. Allowing a suspended or revoked safety inspector to perform predelivery inspections (PDIs) or have access to inspection supplies, which may be grounds for suspension or revocation of the station appointment and an additional suspension or revocation for the inspector.

B. Disciplinary action for a Class IV offense shall be immediate suspension or revocation. A revocation shall not be less than one year or more than three years. A suspension shall constitute any period of time less than a year and shall not be less than 90 days, unless mitigating circumstances exist. Offenses are cumulative in nature and will remain active for a period of 24 months from the date of the offense. For a subsequent violation within 24 months, the suspension or revocation shall be no less duration than the prior discipline received.

C. In the case of the loss of the driver's license, the suspension shall remain in effect until the driver's license is reinstated and consideration for reinstatement of inspection privileges will be made at that time.

D. In cases concerning nonpayment of fees when the inspection station has been given 15 days to reply to a final notice, the suspension of the affected inspection station shall remain in effect until all inspection fees are paid. Consideration for reinstatement of inspection privileges will be made when all fees are paid. Furthermore, stations that have not paid their processing fee after the 15-day period will not be issued any additional inspection supplies. Supply orders may resume when the inspection fee is paid and the station has been reinstated to an active status.

19VAC30-70-7. General information.

All suspension or revocation decisions may be appealed. The request must be made in writing to the safety officer within 15 calendar days of receiving the official notice of suspension or revocation.

~~Any violation under any class of offenses requiring a third suspension within a 24-month period shall be grounds for a revocation.~~ The suspension or revocation period for a subsequent violation requiring suspension or revocation under any class of offenses within a 24-month period shall be twice that of a previous suspension or revocation, unless mitigating circumstances exist. Any violation under any class of offenses requiring a third suspension within a 14-month period shall be grounds for revocation.

For suspension periods of less than six months, inspection stations and safety inspectors will not be required to file an application for reinstatement.

For suspension periods of six months or more, or revocation periods of one to three years, inspection stations must complete the process as set forth for original appointment. Reapplications may be made 60 days prior to the ~~suspension~~ expiration of suspension periods only, not revocations. An inspection station that has its privilege to perform inspections revoked must complete the application process as set forth for original appointments after the expiration of the period of revocation.

~~Suspended safety~~ Safety inspectors who are suspended for suspension periods of six months or more shall contact the ~~nearest~~ appropriate Safety Division Area Office or supervising trooper to request reinstatement. Safety inspectors who have their privilege to perform inspections revoked must complete the application process for initial certification after the expiration of the period of revocation.

~~Inspection stations that have their privilege to perform inspections revoked must complete the application process as set forth for original appointments after the expiration of the period of revocation. Safety inspectors who have their privilege to perform inspections revoked must complete the application process for initial certification, after the expiration of the period of revocation.~~

If during the course of an official investigation, station management voluntarily surrenders the station's inspection supplies, particularly after being cautioned not to do so, the station shall not be eligible for reinstatement for a period of 90 days. This voluntary action shall not be the subject of an appeal.

If during the course of an official investigation, an inspector voluntarily surrenders his ~~inspector~~ inspector's license, particularly after being cautioned not to do so, the inspector shall not be eligible for reinstatement for a period of 90 days. This voluntary action shall not be the subject of an appeal.

19VAC30-70-9. ~~Examinations for inspector's license~~ Inspector requirements.

~~A. The Department of State Police administers the written examination for original certification for all inspectors. With few exceptions, recertifications are done at the normal testing sites along with original certification tests.~~

~~B. In order for an individual to become a certified safety inspector, the following actions shall be followed:~~

~~1. The person shall contact his assigned Safety Division trooper or the local Safety Division Area Office to obtain the following:~~

~~a. Mechanics Certification Application, Form SP-170B;~~

~~b. Criminal History Record Request, Form SP-167; and~~

~~c. Mechanics Application Worksheet.~~

~~2. The supervising trooper or Safety Division office personnel should ask some preliminary questions to ensure the applicant is qualified to apply.~~

~~3. The applicant shall complete (i) Form SP-170B in its entirety and have it notarized on the back; (ii) Form SP-167, to only include sections "Name Information To Be Searched" and "Affidavit For Release of Information," and have it notarized; and complete (iii) the worksheet with two character references, two mechanical references, places of employment, and qualified automotive training or schools completed.~~

~~4. The applicant shall then take the completed application forms to the State Police testing site and present it to the trooper conducting the written examination. Applicants arriving after the designated testing time will not be eligible to participate in the written examination.~~

~~5. The trooper will verify the notarizations and check the driver's license for validity and identification of the applicant. If the applicant's driver's license is found to be expired, suspended or revoked, the applicant will be advised and the application will be destroyed. The applicant may reapply once the driver's license has been reissued or reinstated.~~

6. If the applicant successfully completes the test, the trooper will note at the end of Section I on the Form SP-170B the word "Passed" and the date. The trooper will sign the test and send it to Safety Division Headquarters, Mechanics File Section, for further processing and investigation.

7. The Class A examination will consist of five sections: general information, brakes, suspension, lights, and glass. Each section will contain 20 questions. A minimum score of 75% must be attained for each section and for the practical examination. The Class B and C examinations will consist of 50 questions each. A minimum score of 74 must be attained on the written and practical examination.

8. If the applicant fails the test, it will be noted at the end of Section Ion the Form SP-170B with the word "Failed" and the date.

9. If the applicant desires to test again for the written or practical test, he may do so after 30 days. If the applicant is again unsuccessful in passing the examination or examinations, the trooper shall take the application forms and forward them to Safety Division Headquarters, Mechanics File Section. The applicant may contact his assigned Safety Division trooper or the local Safety Division Area Office after six months to reapply.

C. Recertification.

1. Safety inspectors desiring to renew their inspector's license must participate in the recertification written examination. Inspectors arriving after the designated testing time will not be eligible to participate in the written examination.

2. All safety inspectors will be required to satisfactorily pass the appropriate examination for the license the inspector holds.

3. A safety inspector will not be permitted to perform inspections after the expiration date of his inspector's license.

4. A safety inspector's license shall be valid for a period of three years.

5. All safety inspectors' licenses will display an inspector's VSP number and will no longer display the social security number. The inspector's VSP number will be written on the inspection sticker receipt or displayed on the automated MVIP receipt.

6. Safety inspector testing sites will no longer be included on an inspection bulletin. Testing site information will be updated in the computer system, so that the usual letters going to inspectors to remind them of their upcoming recertification will contain the updated information. All Safety Division Area Offices will also have the updated information.

7. If the safety inspector has any questions about the testing sites, the safety inspector should contact the Safety Division Area Office closest to him. The office numbers are:

Richmond 804-743-2217

Culpeper 540-829-7414

Amherst 434-946-7676

Wytheville 276-228-6220

Suffolk 757-925-2432

Salem 540-387-5437

Fairfax 703-803-2622

D. Reinstatement of safety inspector licenses following a period of suspension or revocation.

1. Once a safety inspector's license has been suspended, regardless of the cause for suspension, no application Form SP-170B is required for reinstatement; however, Form SP-170D and Form SP-167 must be completed.

2. If the inspector is suspended for less than six months, the safety inspector's license will be held at the local Safety Division Area Office and returned upon the expiration of the suspension period. A check will be made with DMV prior to reinstatement.

3. If the inspector's license has been suspended for six months or more, he may request reinstatement 60 days prior to the suspension expiration by contacting the supervising trooper. A check will be made by the supervising trooper with DMV and the Central Criminal Records Exchange. A credit report shall also be reviewed by the supervising trooper prior to reinstatement of the inspector. The inspector's license will be returned after the suspension expiration if still valid.

4. If the suspended inspector's license expires during the suspension period, the inspector may complete the process for inspector recertification as set forth in this section. The trooper administering the test will retain all documentation. The inspector's license will be returned at the end of the suspension period and the appropriate documents forwarded to the Safety Division.

5. Inspectors whose safety inspector's licenses have been revoked must complete the application process for initial certification as set forth in this section.

E. Vo-Tech students who successfully complete the Vocational Automotive Mechanics Course and who are expected to graduate from the program with the required 1,080 hours, and meet the requirements of the Department of State Police, will be certified as safety inspectors.

1. The Vo-Tech instructor will contact his assigned Safety Division trooper or the local Safety Division Area Office

by March 15 of each year. The written examination will be scheduled for students who are at least 18 years of age or who will be at least 18 years of age by May 31 of that year.

2. The Safety Division troopers responsible for administering the written examinations at the Vo Tech Centers will forward sufficient application Form SP-170B for each student to complete prior to the testing date. A Criminal History Record Request (Form SP-167) if the student is at least 18 years of age, must also be completed. The Safety Division trooper will indicate at the top of the Form SP-170B the name of the Vo Tech school where the examination was given.

3. The trooper will verify the notarizations and check the driver's license for validity and identification of the applicant. If the applicant's driver's license is found to be expired, suspended or revoked, the applicant will be advised and the application will be destroyed. The applicant may re-apply once the driver's license has been reissued or reinstated.

4. If the applicant successfully completes the written examination, the trooper will note at the end of Section I on the Form SP-170B the word "Passed" and the date. The trooper will sign the test and forward it to Safety Division Headquarters, Mechanics File Section, for further processing and investigation. Due to the age of these students, this should be done in a minimal amount of time.

5. If the applicant fails the test, it will be noted at the end of Section I on the Form SP-170B with the word "Failed" and the date.

a. The Safety Division trooper will only administer one written examination at the Vo Tech Center. Those students who fail the first written examination may retest, but not sooner than 30 days from the date of the last written examination. Those students who fail the first written examination will keep the Form SP-170B in their possession and present it to the Safety Division trooper at the test site prior to taking the second written examination.

b. The second written examination will not be administered to the students prior to the end of the school year. Prior to taking the second written examination, the student shall have completed the Vocational Automotive Mechanics Course and must be employed at an official inspection station. These students will not be required to have completed the one year of practical experience as an automotive mechanic.

c. For those students who pass the second written examination, the Safety Division trooper will forward the student's Form SP-170B to the Safety Division for further processing and investigation. Those students who successfully pass all phases for original certification will then be issued a temporary inspector license by the Safety Division trooper.

d. Students failing the second written examination will not be allowed to test again for six months and must complete the application process as set forth for original certification.

6. The written examination will consist of five sections: general information, brakes, suspension, lights, and glass. Each section will contain 20 questions. A minimum score of 75% must be attained for each section.

7. Those students who successfully complete all phases of the written examination and background checks will then be administered a practical examination. The Vo Tech instructor who holds a valid Class A Safety Inspector's License will administer the practical "Class A" examination to each student who is expected to graduate from the program. The Safety Division trooper should be on hand to observe at least some of the practical examinations administered by the Vo Tech instructor to ensure that testing is administered according to Safety Division regulations.

8. Those students who successfully complete all phases for original certification by May 31 will be issued a temporary inspector license by the Safety Division trooper. The Safety Division trooper will then forward the completed temporary inspector license to the Safety Division Headquarters, Mechanics File Section.

a. The Safety Division will mail a permanent inspector's license to the student, provided he is at least 18 years of age by May 31 of that year.

b. The Vo Tech instructor will be required to contact the Safety Division trooper prior to the end of the school year if any student fails to complete the Vocational Automotive Mechanics Course.

c. Any student who fails to complete the Vocational Automotive Mechanics Course will not be licensed as a certified safety inspector and will be required to complete the application process as set forth for original certification.

9. Those students who will be at least 18 years of age after May 31 of that year and have successfully completed the Vocational Automotive Mechanics Course must contact the Safety Division trooper assigned to the inspection station where they are employed and complete the application process as set forth for original certification. These students will not be required to have completed the one year of practical experience as an automotive mechanic.

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, 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:

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 thereof, who holds a driver's license from his 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 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 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 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 immediately notify the station's supervising trooper or local Safety Division Area Office 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 disability and this requirement.

19VAC30-70-9.1. ~~Official inspection station appointment~~ Inspector certification.

~~A. These procedures are applicable to the application process for initial appointment, reclassification of appointment, change in ownership, change in name, and~~

reinstatement of the appointment for an official inspection station following a period of suspension or revocation.

For investigations involving changes to the original report, only those areas of inquiry that have changed need to be reported.

For changes in station name, location, and classification only, a narrative report is not required. These requests may be reported on the Form SP-164. This report should include information pertinent to the change. A statement should be included to report verification of information contained in the station's new application for appointment.

1. Any garage or other facility that routinely performs motor vehicle, motorcycle, or trailer repairs may apply to the Department of State Police in writing for appointment as an Official Safety Inspection Station.

a. The Department of State Police will forward an application package to the applicant.

b. The application forms are to be completed and returned to the supervising trooper processing the application within 45 days.

c. The application shall include the names, addresses, email addresses, telephone numbers, dates of birth, and social security numbers for the applicant and each person who will supervise or otherwise participate in the program. Each person will also be required to execute an Authorization for Release of Information Form and a Criminal History Record Request (Form SP-167). When a corporation with other established inspection stations is applying for an additional location, it shall not be necessary for the corporate officers to complete the Form SP-167 or undergo the usual background investigation. In these situations, the Department of State Police is only concerned with the personnel who will be responsible for handling and securing the safety inspection supplies.

2. Each inspection station application will be reviewed and the applicant must meet the following criteria:

a. The facility must have been in business at its present location for a minimum of six months.

(1) This requirement will not apply to a change in location for a previously appointed station.

(2) This requirement will not apply to a repair garage that is an established business and is expanding its mechanical convenience to the general public by the addition of other repair locations.

(3) This requirement will not apply to a business license as a franchised dealer of new vehicles.

b. The facility must perform motor vehicle, motorcycle, or trailer repairs routinely.

c. The station must have on hand or be willing to purchase the necessary equipment as identified by the Department of State Police for performing safety inspections.

d. The station must employ or be willing to employ at least one full-time safety inspector with the appropriate license for the desired station's classification.

e. The facility's physical plant must meet the specific standards for the station classification for which the appointment is required.

3. Each applicant station must undergo a background investigation to determine if the business and associated personnel meet the following minimum criteria:

a. A review of the history of management and all persons employed who will participate in the inspection program must reflect general compliance with all federal, state, and local laws.

b. The character, attitude, knowledge of safety inspection requirements, mechanical ability, and experience of each individual who will perform or supervise safety inspections must be satisfactory.

c. The applicant and all participants must be familiar with and agree to comply with the Official Motor Vehicle Inspection Manual. Each vehicle presented for safety inspection must be inspected in strict compliance with the Code of Virginia and the Official Motor Vehicle Inspection Manual.

d. The business establishment must be financially stable. Its future existence should not be dependent upon appointment as an inspection station. The applicant and all persons to be associated with the inspection program must be in compliance with any judgment order or meeting all financial obligations, or both. The applicant and all persons to be associated with the inspection program must be in good financial standing for a period of at least one year.

Following any change in ownership, new ownership must show financial stability for a minimum of six months prior to their official inspection station appointment.

4. Each business must agree to provide the necessary space, equipment, and personnel to conduct inspections as required by the Department of State Police. Facilities and equipment will be maintained in a manner satisfactory to the superintendent. All safety inspectors will read and be thoroughly familiar with the instructions furnished for Official Inspection Stations and agree to abide by these instructions and to carefully inspect every motor vehicle, trailer, and semi-trailer presented for inspection as required by the Official Motor Vehicle Safety Inspection Manual. Businesses must operate inspection stations in strict accordance with the Code of Virginia and the Official

Motor Vehicle Inspection Manual. The appointment of an inspection station may be canceled at any time by the superintendent and will be automatically canceled if any change in address, name, or ownership is made without proper notification.

5. Any applicant whose application is rejected or withdrawn may not reapply sooner than six months from the date he is notified of the rejection of his application or from the date the application is withdrawn.

6. Each business to be appointed will be assigned one of 11 classifications based upon the physical plant specifications or other criteria as follows:

a. Unlimited: The inspection lane shall be level or on the same plane and in good condition for 60 feet. The front portion of the lane shall be level or on the same plane for a minimum of 40 feet. The entrance shall be at least 13 1/2 feet in height and no less than nine feet in width. (Space should be adequate to allow a tractor truck towing a 53 foot trailer access to the inspection lane.)

b. Small exemption: The inspection lane shall be level or on the same plane for 40 feet. The entrance opening shall be at least 10 feet in height, eight feet in width, and adequate to accommodate vehicles 40 feet in length. Any vehicle exceeding 10 feet in height may be inspected if the building entrance will allow such vehicle to completely enter the designated inspection lane.

c. Large exemption: The inspection lane shall be level or on the same plane and in good condition for 60 feet. The front portion of the lane shall be level or on the same plane for a minimum of 40 feet. The entrance shall be at least 13 1/2 feet in height and no less than nine feet in width. (Space should be adequate to allow a tractor truck towing a 53 foot trailer access to the inspection lane.) This classification is required to inspect only vehicles with a GVWR exceeding 10,000 pounds.

d. Motorcycle: The inspection lane shall be level or on the same plane. The entrance shall be adequate to accommodate the motorcycle and the operator.

e. Unlimited trailer: The inspection lane shall be reasonably level and in good condition for 60 feet. The entrance shall be at least 13 1/2 feet in height and no less than nine feet in width. This classification is required to inspect all trailers.

f. Small trailer exemption: The inspection lane shall be reasonably level and in good condition for 40 feet. The entrance shall be at least 10 feet in height and adequate to accommodate trailers 40 feet in length. This classification is required to inspect only those trailers not exceeding 40 feet in length or 10 feet in height measured to the highest part of the trailer but not including racks, air conditioners, antennas, etc.

g. Large trailer exemption: The inspection lane shall be reasonably level and in good condition for 60 feet. The entrance shall be at least 13 1/2 feet in height and adequate to accommodate all legal size trailers. This classification is required to inspect only property carrying trailers exceeding 10 feet in height or 40 feet in length.

h. Safety and emissions: The inspection lane shall be level or on the same plane. The lane must accommodate most passenger cars and light trucks. The emissions equipment must be placed in the lane at a location to allow the inspected vehicle to be positioned with all four wheels on the floor or on an above ground ramp on a plane to the floor to accommodate headlight aiming and other required inspection procedures. Any above ground structure must be constructed so as to permit proper steering, suspension, brake, and undercarriage inspection as outlined in the Official Motor Vehicle Safety Inspection Manual. A list of local inspection stations that can accommodate vehicles that cannot be safety inspected due to the pretenses of emissions equipment must be maintained and available for customers. A "bottle" jack or other appropriate lifting equipment may be used for safety inspection on above-ground structures.

i. Private station: The inspection lane shall be level or on the same plane. The entrance and size must be adequate to accommodate any vehicle in the fleet. An applicant who owns and operates less than 20 vehicles will not be considered.

j. Private station (fleet service contractor): The inspection lane shall be level or on the same plane. The entrance and size must be adequate to accommodate any vehicle in the fleet to be inspected. This classification will permit the inspection of all vehicles that the applicant has a written agreement to service and repair. An applicant who does not have at least six written agreements to service private fleets with at least five vehicles in each fleet or at least one written agreement to service a private fleet with at least 30 vehicles in the fleet will not be considered for this type of appointment. Vehicles not covered by a written agreement for service and repair, other than the vehicles owned by the applicant's company or corporation, shall not be inspected by a garage having this type of classification.

k. Private station (government): The inspection lane shall be level or on the same plane. The entrance and size must be adequate to accommodate any vehicle in the fleet to be inspected. This classification will permit the inspection of all vehicles in the government entity's fleet, the fleet of any volunteer or paid fire department, or any other unit or agency of the government structure having a written agreement with such governmental entity for repair, inspection service, or both. An applicant for this

~~classification must own or have a written agreement to inspect 30 or more vehicles. Vehicles not owned by or covered by a written agreement shall not be inspected by a garage having this type of classification.~~

~~7. Classifications listed in subdivisions 6 a through 6 h of this subsection must be open to the public and have at least one safety inspector available to perform inspections during normal business hours as set forth in 19VAC30-70-10.~~

~~8. Private inspection station classifications may be assigned to businesses or governmental entities with fixed garage or repair facilities operating or contracting with vehicle fleets.~~

~~B. A representative of any official inspection station may apply to the Department of State Police in writing to request a change of the station's status.~~

~~1. An application form will be forwarded to the applicant.~~

~~2. The applicant will complete the application form and contact the Department of State Police in keeping with the application instructions. Applications will include all data as set forth in this section.~~

~~3. A Safety Division trooper will be assigned to complete the appropriate investigation to affect the change. A change in status investigation will include:~~

~~a. A review of the existing station file.~~

~~b. An update of the file to include personnel, facility, or other significant changes. Criteria for appointment and background investigation procedures for a change in status will be in keeping with this section.~~

~~c. Official inspection stations will be permitted to continue to perform safety inspections during a change of ownership investigation provided at least one safety inspector is retained from the prior owner.~~

~~d. If disqualifying criteria is revealed, the station's appointment shall be canceled until final disposition of the application is made or until issues of disqualifying criteria are resolved.~~

~~C. Once an official inspection station has been suspended, regardless of the cause for the suspension, management may request reinstatement up to 60 days prior to the expiration of the suspension period. Stations whose appointments are revoked may complete the application process as set forth for original appointments after the expiration of the period of revocation.~~

~~1. The applicant station must submit a letter to Safety Division Headquarters (Attention: Station Files) requesting reinstatement.~~

~~2. An application package will be forwarded to the applicant.~~

~~3. The completed application forms are to be returned to Safety Division Headquarters (Attention: Station Files).~~

~~4. After review, the application package is forwarded to the appropriate Safety Division Area Office for investigation.~~

~~a. The trooper assigned to the investigation will compare the information in the new application package to the information in the existing files.~~

~~b. The investigation will focus on any changes or inconsistencies.~~

~~c. The applicant station must meet all criteria for appointment as set forth in this section.~~

~~d. Any applicant whose application for reinstatement is rejected or withdrawn may not reapply sooner than six months from the date he is notified of the rejection or withdrawal of the application.~~

~~D. Failure to comply with the provisions of this section shall be grounds for termination of the application process or cancellation of the official inspection station's appointment. An applicant having an application terminated or an official inspection station having an appointment canceled for noncompliance may not reapply for a period of one year.~~

A. Upon request, the Inspector Certification 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. The applicant must present his completed application in accordance with the provisions established in 19VAC30-70-9.2.

3. 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 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 Inspectors Certification 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, 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 Mechanics Certification 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 is issued a safety inspector license. Upon the student's 18th birthday, providing he 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.

F. Any applicant whose application is withdrawn or rejected due to incomplete documentation may not reapply sooner than six months from the date of the withdrawal or the date the applicant are notified of the rejection of his application. 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, forwarding the original (white copy) to Safety Division Headquarters, issuing the canary copy to the inspector, and retaining the pink copy at the Safety Division Area Office for six months. Once the safety inspector has been issued a temporary license, he is eligible to begin inspecting.

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

19VAC30-70-9.2. Examinations for inspector's license.

A. The Department of State Police administers the written examination for original certification for all inspectors. With few exceptions, recertifications are done at the normal testing sites along with original certification tests.

B. In order for an individual to become a certified safety inspector, the following actions shall be followed:

1. The person shall download the following forms from the Virginia State Police website:

a. Inspector Certification Application, Form SP-170B;

b. Criminal History Record Request, Form SP-167; and

c. Inspector Application Worksheet.

2. The applicant shall (i) complete Form SP-170B in its entirety and have it notarized; (ii) complete and have notarized Form SP-167 with appropriate credit card information or an attached $15 cashier's check, business check or money order payable to "Virginia State Police"; and (iii) complete the Inspector Applicant Worksheet with two character references, two mechanical references, places of employment, and qualified automotive training, or schools completed or mechanical experience.

3. The applicant shall then take the completed application forms to any State Police testing site and present it to the trooper conducting the written examination. Applicants arriving after the designated testing time are not eligible to participate in the written examination.

4. The trooper verifies the notarizations and checks the driver's license for validity and identification of the applicant. If the applicant's driver's license is found to be expired, suspended, or revoked, the applicant is advised, and the application is destroyed. The applicant may reapply once the driver's license has been reissued or reinstated.

5. If the applicant successfully passes the test, the trooper notes at the end of Section I on the Form SP-170B the word "passed" and the date. The trooper signs the test and sends it to Safety Division Headquarters, Inspectors File Section for further processing and investigation.

6. The Class A examination consists of five sections: general information, brakes, suspension, lights, and glass. Each section contains 20 questions. A minimum score of 75% must be attained for each section and for the practical examination. The Classes B and C examinations consist of 50 questions each. A minimum score of 74 must be attained on the written and practical examination.

7. 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.

8. If the applicant desires to test again for the written or practical test, he may do so after 30 days. If the applicant is again unsuccessful in passing either examination, the trooper shall take the application forms and forward them to Safety Division Headquarters, Inspector Files Section. The applicant may contact his assigned Safety Division trooper or the local Safety Division Area Office after six months to reapply.

C. Recertification.

1. Safety inspectors desiring to renew their inspector's license must participate in the recertification written examination. Inspectors arriving after the designated testing time are not eligible to participate in the written examination.

2. All safety inspectors are required to satisfactorily pass the appropriate examination for the license the inspector holds.

3. A safety inspector is not permitted to perform inspections after the expiration date of his inspector's license.

4. A safety inspector's license shall be valid for a period of three years.

5. All safety inspectors' licenses display an inspector's VSP number and do not display the social security number. The inspector's VSP number is written on the inspection sticker receipt or displayed on the automated MVIP receipt.

6. Safety inspector testing sites are not included on an inspection bulletin. Testing site information is updated in the computer system so that the usual letters going to inspectors to remind them of their upcoming recertification contain the updated information. All Safety Division Area Offices also have the updated information.

7. If the safety inspector has any questions about the testing sites, the safety inspector should contact the Safety Division Area Office closest to him. The office numbers are:

Area 61 (Richmond)	804-743-2217
Area 62 (Culpeper)	540-829-7414
Area 63 (Amherst)	434-946-7676
Area 64 (Wytheville)	276-228-6220
Area 65 (Suffolk)	757-925-2432
Area 66 (Salem)	540-387-5437
Area 67 (Fairfax)	703-803-2622

D. Vo-tech students who successfully complete the Vocational Automotive Mechanics Course and who are expected to graduate from the program with the required 1,080 hours and meet the requirements of the Department of State Police are certified as safety inspectors.

1. The vo-tech instructor contacts his assigned Safety Division trooper or the local Safety Division Area Office by March 15 of each year. The written examination is scheduled for students who are at least 18 years of age or who will be at least 18 years of age by March 31 of that year.

2. The Safety Division troopers responsible for administering the written examinations at the vo-tech centers forward sufficient applications, Form SP-170B, for each student to complete prior to the testing date. A Criminal History Record Request (Form SP-167) if the student is at least 18 years of age must also be completed. The Safety Division trooper indicates at the top of the Form SP-170B the name of the vo-tech school where the examination is given.

3. The trooper verifies the notarizations and checks the driver's license for validity and identification of the applicant. If the applicant's driver's license is found to be expired, suspended, or revoked, the applicant is advised, and the application is destroyed. The applicant may reapply once the driver's license has been reissued or reinstated.

4. If the applicant successfully completes the written examination, the trooper notes at the end of Section I on the Form SP-170B the word "passed" and the date. The trooper signs the test and forwards it to Safety Division Headquarters, Mechanics File Section for further processing and investigation. Due to the age of these students, this should be done in a minimal amount of time.

5. 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.

a. The Safety Division trooper only administers one written examination at the vo-tech center. Those students who fail the first written examination may retest, but not sooner than 30 days from the date of the last written examination. Those students who fail the first written examination keep the Form SP-170B in their possessions and present it to the Safety Division trooper at the test site prior to taking the second written examination.

b. The second written examination is not administered to the students prior to the end of the school year. Prior to taking the second written examination, the student shall have completed the Vocational Automotive Mechanics Course and must be employed at an official inspection station. These students are not required to have completed the one year of practical experience as an automotive mechanic.

c. For those students who pass the second written examination, the Safety Division trooper will forward the student's Form SP-170B to the Safety Division for further processing and investigation. Those students who successfully pass all phases for original certification are then issued a temporary inspector license by the Safety Division trooper.

d. Students failing the second written examination are not allowed to test again for six months and must complete the application process as set forth for original certification.

6. The written examination consists of five sections: general information, brakes, suspension, lights, and glass. Each section contains 20 questions. A minimum score of 75% must be attained for each section.

7. Those students who successfully complete all phases of the written examination and background checks are then administered a practical examination. The vo-tech

instructor, who holds a valid Class A Safety Inspector's License, administers the practical "Class A" examination to each student who is expected to graduate from the program. The Safety Division trooper should be on hand to observe at least some of the practical examinations administered by the vo-tech instructor to ensure that testing is administered according to Safety Division regulations.

8. Those students who successfully complete all phases for original certification by March 31 will be issued a temporary inspector license by the Safety Division trooper. The Safety Division trooper then forwards the completed temporary inspector license to the Safety Division Headquarters, Inspector Files Section.

a. The Safety Division mails a permanent inspector's license to the student, provided he is at least 18 years of age by March 31 of that year.

b. The vo-tech instructor is required to contact the Safety Division trooper prior to the end of the school year if any student fails to complete the Vocational Automotive Mechanics Course.

c. Any student who fails to complete the Vocational Automotive Mechanics Course is not licensed as a certified safety inspector and is required to complete the application process as set forth for original certification.

9. Those students who will be at least 18 years of age after March 31 of that year and have successfully completed the Vocational Automotive Mechanics Course must contact the Safety Division trooper assigned to the inspection stations where they are employed and complete the application process as set forth for original certification. These students are not required to have completed the one year of practical experience as an automotive mechanic.

19VAC30-70-9.3. Reinstatement of safety inspector license; classification change; recertification.

A. Reinstatement of safety inspector licenses following a period of suspension or revocation.

1. The inspector shall contact his supervising trooper or nearest Safety Division Area Office to initiate the reinstatement process.

2. If the inspector is suspended for less than six months, the safety inspector's license will be held at the local Safety Division Area Office and returned upon the expiration of the suspension period. A check will be made by the supervising trooper with Department of Motor Vehicles (DMV) prior to reinstatement.

3. Once a safety inspector's license has been suspended for a period of six months or more, regardless of the cause for suspension, no application Form SP-170B is required for reinstatement; however, Form SP-170D and Form SP-167 must be completed. The supervising trooper checks with DMV, all court jurisdictions, and the Central Criminal Records Exchange. The supervising trooper shall also review a credit report prior to reinstatement of the inspector.

4. If the suspended inspector's license expires during the suspension period, the inspector may complete the process for inspector recertification as set forth in this section. The trooper administering the test will retain all documentation. The inspector's license will be returned at the end of the suspension period, if the suspended inspector's records indicate he is suitable for reinstatement, and the appropriate documents forwarded to the Safety Division.

5. Inspectors whose safety inspector's licenses have been revoked must complete the application process for initial certification as set forth in this section.

B. Safety inspectors who desire to change their license classification must complete the written and practical examinations as outlined in 19VAC30-70-9.2.

C. Safety inspectors desiring to renew their inspector's license must participate in the recertification process. The process requires the following:

1. Review of training materials as may be presented at the certification testing site by State Police personnel.

2. Completion of the appropriate examination for the class license the inspector holds. A minimum score must be attained as previously outlined in 19VAC30-70-9.2.

3. An inspector holding an expired license may be tested as long as his license has not been expired more than one month. During the period of expiration, he will not be permitted to perform inspections.

An inspector holding an expired inspector license that has not been expired more than one month and who fails the recertification examination the first time during this one-month grace period may be retested one additional time not sooner than 30 days from the date of the last recertification examination. Inspectors failing this subsequent examination are not retested for six months and must complete the application process as set forth for initial certification.

D. When a request for reinstatement is denied, inspectors who are suspended for a period of six months or more may not reapply sooner than 12 months from the date of the letter notifying the denial. Following an initial certification investigation for a revoked inspector, if the revoked inspector is denied, he may not reapply sooner than 12 months from the date of the letter notifying the denial.

Part II
Inspection Requirements

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~~ 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. ~~Stations that take in vehicles for inspection at the beginning of the work day shall not be required to stop inspecting those vehicles to provide an inspection for a drive-in request, provided inspections are currently being performed at the time and will continue throughout the day.~~

~~Stations shall make every effort to keep the designated inspection lanes available. Stations with more than one repair bay shall not perform work in the designated inspection lanes when customers are waiting for an inspection. This will not apply to minor adjustments that require minimal time to perform. Stations shall not let vehicles occupy the designated inspection lanes while awaiting parts or customer authorization to complete the inspection pursuant to 19VAC30-70-60.~~

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 ~~MVIP~~ Motor Vehicle Inspection Program (MVIP) system, adjacent to the certificate of appointment. All inspectors listed must be actively employed by the station. ~~The Official Motor Vehicle Safety Inspection Manual will be kept at or near the point of inspection for ready reference. The manual may be kept in written or electronic form.~~

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 ~~a few~~ 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 ~~that~~ 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. ~~In December of each year, a supply of year inserts will be shipped to each station based on the station's previous year's usage. In November, each station shall check its stock of month inserts and order what is needed for the months of January through June. In May, the same should be done for the months of July through December.~~

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 shipment, additional supplies can 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. ~~Manuals~~ The Official Motor Vehicle Safety Inspection Manual must be kept at or near the point of inspection for ready reference. Additional manuals, bulletins, ~~other~~ regulations, and lists of approved equipment must also be available at all times ~~for reference and~~. 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.

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 ~~immediate suspension and the conviction for such an offense~~ 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.

19VAC30-70-10.1. Official inspection station appointment.

A. These procedures are applicable to the application process for initial appointment, reclassification of appointment, change in ownership, change in name, and reinstatement of the appointment for an official inspection station following a period of suspension or revocation.

For investigations involving changes to the original report, only those areas of inquiry that have changed need to be reported.

For changes in station name, location, and classification only, a narrative report is not required. These requests may be reported on the Form SP-164. This report should include information pertinent to the change. A statement should be included to report verification of information contained in the station's new application for appointment.

1. Any garage or other facility that routinely performs motor vehicle, motorcycle, or trailer repairs may apply to the Department of State Police in writing for appointment as an Official Safety Inspection Station.

a. The Department of State Police will forward an application package to the applicant.

b. The application forms are to be completed and returned to the supervising trooper processing the application within 45 days.

c. The application shall include the names, addresses, email addresses, telephone numbers, dates of birth, and social security numbers for the applicant and each person who will supervise or otherwise participate in the program. Each person is also required to execute an Authorization for Release of Information Form (SP-170-D) and a Criminal History Record Request (Form SP-167). When a corporation with other established inspection stations is applying for an additional location, it shall not be necessary for the corporate officers to complete the Form SP-167 or undergo the usual background investigation. In these situations, the Department of State Police is only concerned with the personnel who will be responsible for handling and securing the safety inspection supplies.

2. Each inspection station application is reviewed, and the applicant must meet the following criteria:

a. The facility must have been in business at its present location for a minimum of 90 days.

(1) This requirement does not apply to a change in location for a previously appointed station.

(2) This requirement does not apply to a repair garage that is an established business and is expanding its mechanical convenience to the general public by the addition of other repair locations.

(3) This requirement does not apply to a business license as a franchised dealer of new vehicles.

b. The facility must perform motor vehicle, motorcycle, or trailer repairs routinely.

c. The station must have on hand or be willing to purchase the necessary equipment as identified by the Department of State Police for performing safety inspections.

d. The station must employ or be willing to employ at least one safety inspector with the appropriate license for the desired station's classification.

e. The facility's physical plant must meet the specific standards for the station classification for which the appointment is required.

3. Each applicant station must undergo a background investigation to determine if the business and associated personnel meet the following minimum criteria:

a. A review of the history of management and all persons employed who will participate in the inspection program must reflect general compliance with all federal, state, and local laws.

b. The character, attitude, knowledge of safety inspection requirements, mechanical ability, and experience of each individual who will perform or supervise safety inspections must be satisfactory.

c. The applicant and all participants must be familiar with and agree to comply with the Official Motor Vehicle Inspection Manual. Each vehicle presented for safety inspection must be inspected in strict compliance with the Code of Virginia and the Official Motor Vehicle Inspection Manual.

d. The business establishment must be financially stable. Its future existence should not be dependent upon appointment as an inspection station. The applicant and all persons to be associated with the inspection program must be in compliance with any judgment order or meeting all financial obligations, or both. The applicant and all persons to be associated with the inspection program must be in good financial standing for a period of at least one year.

Following any change in ownership, new ownership must show financial stability for a minimum of 90 days prior to their official inspection station appointment.

4. Each business must agree to provide the necessary space, equipment, and personnel to conduct inspections as required by the Department of State Police. Facilities and equipment must be maintained in a manner satisfactory to the superintendent. All safety inspectors must read and be thoroughly familiar with the instructions furnished for Official Inspection Stations and agree to abide by these instructions and to carefully inspect every motor vehicle, trailer, and semi-trailer presented for inspection as required by the Official Motor Vehicle Safety Inspection Manual. Businesses must operate inspection stations in strict accordance with the Code of Virginia and the Official Motor Vehicle Inspection Manual. The appointment of an inspection station may be canceled at any time by the superintendent and are automatically canceled if any change in address, name, or ownership is made without proper notification.

5. Any applicant whose application is withdrawn, or rejected due to incomplete documentation, may not reapply sooner than six months from the date of the withdrawal or the date the applicant is notified of the rejection of his application. Any applicant whose application is denied may not reapply sooner than 12 months from the date of the letter notifying the denial.

6. Each business to be appointed will be assigned one of 11 classifications based upon the physical plant specifications or other criteria as follows:

a. Unlimited: The inspection lane shall be level or on the same plane and in good condition for 60 feet. The front portion of the lane shall be level or on the same plane for a minimum of 40 feet. The entrance shall be at least 13-1/2 feet in height and no less than nine feet in width. Space should be adequate to allow a tractor truck towing a 53-foot trailer access to the inspection lane.

b. Small exemption: The inspection lane shall be level or on the same plane for 40 feet. The entrance opening shall be at least 10 feet in height, eight feet in width, and adequate to accommodate vehicles 40 feet in length. Any vehicle exceeding 10 feet in height may be inspected if the building entrance will allow such vehicle to completely enter the designated inspection lane.

c. Large exemption: The inspection lane shall be level or on the same plane and in good condition for 60 feet. The front portion of the lane shall be level or on the same plane for a minimum of 40 feet. The entrance shall be at least 13-1/2 feet in height and no less than nine feet in width. Space should be adequate to allow a tractor truck towing a 53-foot trailer access to the inspection lane. This classification is required to inspect only vehicles with a gross vehicle weight rating (GVWR) exceeding 10,000 pounds.

d. Motorcycle: The inspection lane shall be level or on the same plane. The entrance shall be adequate to accommodate the motorcycle and the operator.

e. Unlimited trailer: The inspection lane shall be reasonably level and in good condition for 60 feet. The entrance shall be at least 13-1/2 feet in height and no less than nine feet in width. This classification is required to inspect all trailers.

f. Small trailer exemption: The inspection lane shall be reasonably level and in good condition for 40 feet. The entrance shall be at least 10 feet in height and adequate to accommodate trailers 40 feet in length. This classification is required to inspect only those trailers not exceeding 40 feet in length or 10 feet in height measured to the highest part of the trailer but not including racks, air conditioners, antennas, etc.

g. Large trailer exemption: The inspection lane shall be reasonably level and in good condition for 60 feet. The entrance shall be at least 13-1/2 feet in height and adequate to accommodate all legal size trailers. This classification is required to inspect only property-carrying trailers exceeding 10 feet in height or 40 feet in length.

h. Safety and emissions: The inspection lane shall be level or on the same plane. The lane must accommodate most passenger cars and light trucks. The emissions equipment must be placed in the lane at a location to allow the inspected vehicle to be positioned with all four wheels on the floor or on an above-ground ramp on a plane to the floor to accommodate headlight aiming and other required inspection procedures. Any above-ground structure must be constructed so as to permit proper steering, suspension, brake, and undercarriage inspection as outlined in the Official Motor Vehicle Safety Inspection Manual. A list of local inspection stations that can accommodate vehicles that cannot be safety inspected due to the pretenses of emissions equipment must be maintained and available for customers. A "bottle" jack or other appropriate lifting equipment may be used for safety inspection on above-ground structures.

i. Private station: The inspection lane shall be level or on the same plane. The entrance and size must be adequate to accommodate any vehicle in the fleet. An applicant who owns and operates fewer than 20 vehicles will not be considered.

j. Private station (fleet service contractor): The inspection lane shall be level or on the same plane. The entrance and size must be adequate to accommodate any vehicle in the fleet to be inspected. This classification will permit the inspection of all vehicles that the applicant has a written agreement to service and repair. An applicant who does not have at least six written agreements to service private fleets with at least five vehicles in each fleet or at least one written agreement to service a private fleet with at least 30 vehicles in the fleet will not be considered for this type of appointment. Vehicles not covered by a written agreement for service and repair, other than the vehicles owned by the applicant's company or corporation, shall not be inspected by a garage having this type of classification.

k. Private station (government): The inspection lane shall be level or on the same plane. The entrance and size must be adequate to accommodate any vehicle in the fleet to be inspected. This classification permits the inspection of all vehicles in the government entity's fleet, the fleet of any volunteer or paid fire department, or any other unit or agency of the government structure having a written agreement with such governmental entity for repair, inspection service, or both. An applicant for this classification must own or have a written agreement to inspect 30 or more vehicles. Vehicles not owned by or covered by a written agreement shall not be inspected by a garage having this type of classification.

7. Classifications listed in subdivisions 6 a through 6 h of this subsection must be open to the public and have at least one safety inspector available to perform inspections during normal business hours as set forth in 19VAC30-70-10.

8. Private inspection station classifications may be assigned to businesses or governmental entities with fixed garage or repair facilities operating or contracting with vehicle fleets.

B. A representative of any official inspection station may apply to the Department of State Police in writing to request a change of the station's status.

1. An application form is forwarded to the applicant.

2. The applicant completes the application form and contacts the Department of State Police in keeping with the application instructions. Applications must include all data as set forth in this section.

3. A Safety Division trooper is assigned to complete the appropriate investigation to affect the change. A change in status investigation includes the following:

a. A review of the existing station file.

b. An update of the file to include personnel, facility, or other significant changes. Criteria for appointment and background investigation procedures for a change in status will be in keeping with this section.

c. Official inspection stations are permitted to continue to perform safety inspections during a change of ownership investigation provided at least one safety inspector is retained from the prior owner.

d. If disqualifying criteria is revealed, the station's appointment shall be canceled until final disposition of the application is made or until issues of disqualifying criteria are resolved.

C. Once an official inspection station has been suspended, regardless of the cause for the suspension, management may request reinstatement up to 60 days prior to the expiration of the suspension period. Stations whose appointments are revoked may complete the application process as set forth for original appointments after the expiration of the period of revocation.

1. The applicant station must submit a letter to Safety Division Headquarters (Attention: Station Files) requesting reinstatement.

2. An application package is forwarded to the applicant.

3. The completed application forms must be returned to Safety Division Headquarters (Attention: Station Files).

4. After review, the application package is forwarded to the appropriate Safety Division Area Office for investigation.

a. The trooper assigned to the investigation compares the information in the new application package to the information in the existing files.

b. The investigation focuses on any changes or inconsistencies.

c. The applicant station must meet all criteria for appointment as set forth in this section.

d. Any applicant whose application for reinstatement is rejected or withdrawn may not reapply sooner than six months from the date he is notified of the rejection or withdrawal of the application.

D. When a request for reinstatement is denied, a station suspended a period of six months or more may not reapply sooner than 12 months from the date of the letter notifying the denial. Following an original appointment investigation for a revoked station, if the revoked station is denied, it may not reapply sooner than 12 months from the date of the letter notifying the denial.

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 shall be inspected according to these standards. 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. 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.

19VAC30-70-25. Exceptions to motor vehicle inspection requirements.

A. The following shall be exempt from inspection as required by § 46.2-1157 of the Code of Virginia:

1. Four-wheel vehicles weighing less than 500 pounds and having less than six horsepower;

2. Boat, utility, or travel trailers that are not equipped with brakes;

3. Antique motor vehicles or antique trailers as defined in § 46.2-100 of the Code of Virginia and licensed pursuant to § 46.2-730 of the Code of Virginia;

4. Any motor vehicle, trailer, or semitrailer that is outside the Commonwealth at the time its inspection expires when operated by the most direct route to the owner's or operator's place of residence or the owner's legal place of business in the Commonwealth;

5. A truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired while the vehicle was outside the Commonwealth (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth, (b) inspected within such 24-hour period, and (c) operated, after being unloaded, only to an inspection station or to the place where it is kept or garaged within the Commonwealth;

6. New motor vehicles, new trailers, or new semitrailers may be operated upon the highways of Virginia for the purpose of delivery from the place of manufacture to the dealer's or distributor's designated place of business or between places of business if such manufacturer, dealer, or distributor has more than one place of business, without being inspected; dealers or distributors may take delivery and operate upon the highways of Virginia new motor vehicles, new trailers, or new semitrailers from another dealer or distributor provided a motor vehicle, trailer, or semitrailer shall not be considered new if driven upon the highways for any purpose other than the delivery of the vehicle;

7. New motor vehicles, new trailers, or new semitrailers bearing a manufacturer's license may be operated for test purposes by the manufacturer without an inspection;

8. Motor vehicles, trailers, or semitrailers may be operated for test purposes by a certified inspector without an inspection sticker during the performance of an official inspection;

9. New motor vehicles, new trailers, or new semitrailers may be operated upon the highways of Virginia over the most direct route to a location for installation of a permanent body without being inspected;

10. Motor vehicles, trailers, or semitrailers purchased outside the Commonwealth may be driven to the purchaser's place of residence or the dealer's or distributor's designated place of business without being inspected;

11. Prior to purchase from auto auctions within the Commonwealth, motor vehicles, trailers, or semitrailers may be operated upon the highways not to exceed a five-mile radius of such auction by prospective purchasers only for the purpose of road testing without being inspected; motor vehicles, trailers, or semitrailers purchased from auto auctions within the Commonwealth also may be operated upon the highways from such auction to the purchaser's place of residence or business without being inspected;

12. Motor vehicles, trailers, or semitrailers, after the expiration of a period fixed for the inspection thereof, may be operated over the most direct route between the place where such vehicle is kept or garaged and an official inspection station for the purpose of having the same inspected pursuant to a prior appointment with such station;

13. Any vehicle for transporting well-drilling machinery and mobile equipment as defined in § 46.2-700 of the Code of Virginia;

14. Motor vehicles being towed in a legal manner as exempted under § 46.2-1150 of the Code of Virginia;

15. Logtrailers as exempted under § 46.2-1159 of the Code of Virginia;

16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes as exempted under § 46.2-1160 of the Code of Virginia;

17. Any tow dolly or converter gear as defined in § 46.2-1119 of the Code of Virginia;

18. A new motor vehicle, as defined in § 46.2-1500 of the Code of Virginia, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle (i.e., predelivery inspection (PDI)) by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § 46.2-1508 of the Code of Virginia shall be deemed to have met the safety inspection requirements of ~~the~~ this section without a separate safety inspection by an official inspection station. Such inspection shall be deemed to be the first inspection for the purpose of § 46.2-1158 of the Code of Virginia, and an inspection approval sticker furnished by the Department of State Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § 46.2-1163 of the Code of Virginia.

NOTE: Only an active certified safety inspector may enter the vehicle's information into the Motor Vehicle Inspection Program (MVIP) database and affix the inspection sticker to the vehicle;

19. Mopeds;

20. Low-speed vehicles; and

21. Vehicles exempt from registration pursuant to Article 6 (§ 46.2-662 et seq.) of Chapter 6 of Title 46.2 of the Code of Virginia.

B. The following shall be exempt from inspection as required by § 46.2-1157 of the Code of Virginia provided (i) the commercial motor vehicle operates in interstate commerce; (ii) the commercial motor vehicle is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program; (iii) the inspection has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of 49 CFR 396.3(a); and (iv) documentation of such determination as provided for in 49 CFR 396.3(b) is available for review by law-enforcement officials to verify that the inspection is current:

1. Any commercial motor vehicle operating in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

2. Any trailer or semitrailer being operated in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

19VAC30-70-30. ~~Inspector requirements.~~ (Repealed.)

~~A. The inspection of motor vehicles required by these rules and regulations 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. In addition, all certified inspectors shall have:~~

~~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, 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 and a person who meets them in repairing trailers may be certified to inspect trailers only.~~

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

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

~~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 thereof, who holds a driver's license from his home state.~~

~~E. An inspector whose driver's license is suspended or revoked, including the seven day administrative suspension for a DUI arrest, 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 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 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 new employer to commence participation in the program at his 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 may be handled~~

by contacting the Safety Division Headquarters in Richmond by telephone.

H. An inspector must promptly notify the Safety Division in writing of any change in his home address as shown on the safety inspector's license. In the event the license becomes mutilated, lost or stolen, the inspector must notify the Department of State Police immediately in writing, requesting a duplicate. The Safety Inspector Notification Form shall be used and all requested information should be printed plainly and completely. For those inspectors who are not employed, write "Inactive" in the station name block. In those cases where notification is being made due to an address change, it will be necessary to: (i) fill out the form completely and (ii) retain a copy of the form and license until a permanent (new) license is received. In those cases where the license has been lost, stolen or mutilated, complete steps in clauses (i) and (ii) as set forth in this subsection. The notification form may be duplicated as necessary.

I. An inspector must immediately notify the station's supervising trooper or local Safety Division Area Office 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 will be required to furnish documentation from the particular school division where the applicant was classified as having a learning disability. The specific learning disability will 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 disability and this requirement.

19VAC30-70-31. ~~Inspector certification.~~ (Repealed.)

A. Upon request, a Mechanics Certification Application (Form SP-170B) and a Criminal History Record Request (Form SP-167) will be provided to individuals desiring appointment as certified safety inspectors.

1. The application package will include 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. The applicant will present his completed application Form SP-170B, a Criminal History Records Request (Form SP-167), and a valid driver's license at the testing site. The applicant's identity will be verified by comparing the driver's license to the application form. The application will be reviewed for proper notarization. The application shall include the applicant's name, address, date of birth, social security number, driver's license number, physical, personal, and employment data.

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

C. The Class A inspector examination will consist of five sections containing 20 questions each. A minimum score of 75% must be attained for each section. The Class 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, it will be noted at the end of Section I on the Form SP-170B with the word "Failed" and the date. The application will be returned to the applicant. Applicants failing to attain the minimum score will not be allowed to test again for 30 days. Applicants failing a second or subsequent examination will not be allowed to test again for six months.

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

1. The applicant's record will be checked against safety inspector and Central Criminal Records Exchange (CCRE) files.

2. Inspection and criminal record information along with the applicant's driver transcript will be forwarded with the application to the appropriate Safety Division Area Office for investigation.

3. A credit check will be 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 will be 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 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 - 3 semester hours

(2) Braking Systems - 3 semester hours

(3) Emissions Control Systems - 3 semester hours

(4) Suspension and Steering Systems - 3 semester hours

(5) Vehicle Safety Inspection - 2 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 Mechanics Certification 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, will be 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 will be issued a safety inspector license. Upon the student's 18th birthday, providing he still meets all of the requirements, the student will be issued a safety inspector license.

(3) Students failing the second written examination will not be 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) will be 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 towards 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.

F. Any applicant whose application is rejected or withdrawn may not reapply sooner than six months from the date he is notified of the rejection of their application or their application is withdrawn.

G. When a safety inspector is certified, the bottom of the Form SP 170B will be 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 will fill out the temporary inspector's license in triplicate, forwarding the original (white copy) to Safety Division Headquarters, issuing the canary copy to the inspector, and retaining the pink copy at the Safety Division Area Office for six months. Once the safety inspector has been issued his temporary license, he will be eligible to begin inspecting.

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

19VAC30-70-32. Reinstatement of safety inspector license following suspension or revocation. (Repealed.)

A. Reinstatement of safety inspector licenses following a period of suspension or revocation.

1. Once a safety inspector's license has been suspended, regardless of the cause for suspension, he may request reinstatement up to 60 days prior to the expiration of the suspension period.

a. No application Form SP-170B is required for reinstatement; however, Form SP-170D and Form SP-167 must be completed. The safety inspector's license will be held at the local Safety Division Area Office and returned upon the expiration of the suspension period. In all cases, Safety Division Headquarters must be notified forthwith by electronic means of the reinstatement of the license. The Form SP-164 will be filed to indicate the date the inspector was reinstated.

b. The inspector shall contact his supervising trooper or nearest Safety Division Area Office to initiate the reinstatement process.

c. The inspector's records on file at the Department of Motor Vehicles and Central Criminal Records Exchange will be reviewed to determine his suitability for reinstatement. If the suspended inspector's records indicate he is suitable for reinstatement, at the end of the suspension period or other appropriate time, the original inspector's license will be returned. A temporary license may be issued if the original is not available.

If the suspended inspector's license should expire during the suspension period, the inspector may complete the process for inspector recertification as outlined in 19VAC30-70-9. The trooper administering the test will retain all documentation. The inspector's license will be returned at the end of the suspension period and the appropriate documents forwarded to the Safety Division.

2. Inspectors whose safety inspector's licenses have been revoked must complete the application process as set forth for initial certification after the expiration of the period of revocation.

B. Safety inspectors who desire to change their license classification must complete the written and practical examinations as outlined in 19VAC30-70-9.

C. Safety inspectors desiring to renew their inspector's license must participate in the recertification process. The process will require:

1. Review of training materials as may be presented at the certification testing site by State Police personnel.

2. Completion of the appropriate examination for the class license the inspector holds. A minimum score must be attained as previously outlined in 19VAC30-70-9.

3. An inspector holding an expired license may be tested as long as his license has not been expired more than one month. During the period of expiration he will not be permitted to perform inspections.

An inspector holding an expired inspector license which has not been expired more than one month and who fails the recertification examination the first time during this one-month grace period may be retested one additional time not sooner than 30 days from the date of the last recertification examination. Inspectors failing this subsequent examination will not be retested for six months and must complete the application process as set forth for initial certification.

D. Failure to comply with the provisions of this section shall be grounds for the termination of the application process or cancellation of the safety inspector's license, or both. Applicants having applications terminated or safety inspector's license canceled may not reapply for a period of one year.

19VAC30-70-40. Fees.

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

B. The maximum inspection fees effective July 1, ~~2006~~ 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 $.50 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 ~~begin on March 15 of every year~~ 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. $10 of the $12 inspection fee for motorcycles shall be retained by the inspection station and the other $2.00 shall be transmitted to the Department of State Police. Collection of these fees will begin March 15 of every year.~~

~~3. After the appropriate fee has been determined for each station, a letter from the Safety Division will be mailed to the station requiring that a check for that amount be mailed in the enclosed envelope to: Department of State Police, Safety Division, 7700 Midlothian Turnpike, North Chesterfield, VA 23235. The check must be made out to the Department of State Police. The letter will include the following notice: "Do Not Send The Processing Fee To The P.O. Box. All Fees Are To Be Sent To The Safety Division Street Address."~~

~~4.~~ 2. After the appropriate fee has been determined for each station, an invoice is uploaded to each station's MVIP 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 station ~~will have~~ has 30 days in which to mail in the processing fee. In the event a check does not clear the bank for any reason, a ~~$15~~ $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.

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 ~~$16~~ $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.

19VAC30-70-50. Approval stickers and decals.

A. If the vehicle meets all inspection requirements, the certified safety inspector performing the inspection shall immediately enter the receipt information via the ~~MVIP~~ Motor Vehicle Inspection Program (MVIP) system.

The inspection sticker is not valid unless the rear portion is completed with the vehicle make, year built, license plate number (dealer name if a dealer tag is displayed), body type, and the complete vehicle identification number (VIN). The inspection sticker shall be completed using black indelible ink.

B. Approval stickers and decals shall be issued according to the following schedule:

ANNUAL PROGRAM

Vehicles inspected in January are issued stickers bearing the Number "1"
Vehicles inspected in February are issued stickers bearing the Number "2"
Vehicles inspected in March are issued stickers bearing the Number "3"
Vehicles inspected in April are issued stickers bearing the Number "4"
Vehicles inspected in May are issued stickers bearing the Number "5"
Vehicles inspected in June are issued stickers bearing the Number "6"
Vehicles inspected in July are issued stickers bearing the Number "7"
Vehicles inspected in August are issued stickers bearing the Number "8"
Vehicles inspected in September are issued stickers bearing the Number "9"
Vehicles inspected in October are issued stickers bearing the Number "10"
Vehicles inspected in November are issued stickers bearing the Number "11"
Vehicles inspected in December are issued stickers bearing the Number "12"

All issued annual inspection stickers shall expire at the end of the last day of the month displayed on the sticker. For example, a January inspection sticker expires at 12:00:00 a.m. on February 1.

All February annual inspection stickers ~~for trailer and motorcycle decals (#2)~~ (i.e., stickers numbered "2") due to expire at midnight, February 28 automatically will be valid through midnight February 29 each leap year.

C. The numeral ~~decal~~ insert indicating the month of expiration shall be ~~inserted in~~ affixed to the box identified as month ~~and the numeral decal indicating the year of expiration shall be inserted in the box identified as year of~~ on the car or truck approval sticker. The numeral insert indicating the month and year of expiration shall be affixed to the box identified as month and year on the trailer or motorcycle sticker.

Extreme care should be used by inspectors ~~in~~ when applying ~~these~~ inserts. ~~On all windshields, the~~ The sticker ~~is to~~ shall be placed at the bottom left corner of the windshield when viewed from the inside of the vehicle. The left edge of the sticker is to be placed as close as practical, but no closer than one inch to the left edge of the windshield when viewed from the inside of the vehicle. The top edge of the sticker is to be approximately four inches from the bottom of the windshield when viewed from the inside of the vehicle.

NOTE: Minor adjustments to the placement of the safety inspection sticker may be made to avoid the decal being obscured by the windshield's monogram.

NOTE: On passenger vehicles not equipped with a windshield, the sticker shall be placed on or under the dash and protected in some manner from the weather.

EXCEPTIONS: On vehicles equipped with heating and grid elements on the inside of the windshield, the sticker shall be placed one inch above the top of the grid element and the left edge of the sticker shall be approximately one inch to the right of the left edge of the windshield when viewed from the inside of the vehicle.

Any sticker or decal required by the laws of any other state or the District of Columbia and displayed upon the windshield of a vehicle submitted for inspection in the Commonwealth is permitted by the superintendent, provided the vehicle is currently registered in that jurisdiction, and the sticker is displayed in a manner designated by the issuing authority and has not expired. In these cases, if the sticker or decal is located where the inspection sticker is to be placed, it will not be removed unless the owner or operator authorizes its removal. The inspection sticker will be placed 1/4 inch to the right of the sticker or decal when viewed from the inside of the vehicle without removing or overlapping the sticker or decal.

D. The Code of Virginia requires that the inspection sticker be displayed on the windshield or at other designated places at all times. The inspection sticker cannot be transferred from one vehicle to another.

EXCEPTION: If the windshield in a vehicle is replaced, a valid sticker may be removed from the old windshield and placed on the new windshield.

E. The sticker issued to a motorcycle shall be affixed to the left side of the cycle where it will be most visible after mounting. The sticker may be placed on a plate on the left side where it will be most visible and securely fastened to the motorcycle for the purpose of displaying the sticker. The sticker may be placed horizontally or vertically.

F. Trailer stickers will be issued to all trailers and semitrailers required to be inspected. (No boat, utility, or travel trailer that is not equipped with brakes shall be required to be inspected.)

G. All inspected trailers must display a trailer sticker on that particular vehicle. These stickers are to be placed on the left side of the trailer near the front corner. The sticker must be affixed to the trailer body or frame. In those instances where a metal back container with a removable transparent cover has been permanently affixed to the trailer body, the sticker may be glued to it. The container must be permanently mounted in such a manner that the sticker must be destroyed to remove it.

H. In all other cases involving unusually designed trailers such as pole trailers, the safety inspector is to exercise his own good judgment in placing the sticker at a point where it will be as prominent as possible and visible for examination from the left side.

I. Motorcycles have a separate sticker that is orange and issued with the prefix M. Trailers have a separate sticker that is blue and issued with the prefix T. The trailer and motorcycle receipts are completed in the same manner as other inspection receipts.

J. Appointed stations will keep sufficient inspection supplies on hand to meet their needs. Requests for additional supplies shall be ordered via the MVIP system. Requests for supplies that are to be picked up at the Safety Division Headquarters must be made at least 24 hours prior to pick up.

Packing slips mailed with inspection supplies will be kept on file at the station for at least 24 months.

K. All unused center inserts used to indicate the month that a sticker expires, in possession of the inspection station at the end of each month, shall be retained by the inspection station, properly safeguarded, and used in the inspection of vehicles for that particular month in the following year or be disposed of as directed by the Department of State Police.

All inspection supplies that are voided, damaged, disfigured or become unserviceable in any manner, will be returned to the Safety Division. New replacement supplies will be issued to the station. Expired stickers will be picked up by the station's supervising trooper.

L. All voided approval or rejection stickers will be picked up by the station's supervising trooper.

M. The MVIP system approval or rejection printed receipt shall be given to the owner or operator of the vehicle. In the event of an MVIP or internet connection failure, manual receipts from the approval and rejection books shall be utilized.

N. All ~~yellow~~ white copies ~~of approval stickers will~~ within the approval (car and truck, trailer and motorcycle) and rejection books shall be retained in the books and shall be kept on file at the station for at least six months. Stations shall notate necessary information on the white copy to provide a means of tracking for audit purposes. They may be inspected by any law-enforcement officer during normal business hours.

O. Safety Division troopers may replace inspection stickers that have separated from the windshield of motor vehicles and become lost or damaged without conducting an inspection of the safety components of the vehicle. Such replacement of inspection stickers shall be made only in accordance with the following provisions:

1. A vehicle owner or operator complaining of the loss or damage to the inspection sticker on the windshield of their vehicle due to separation of the sticker from the windshield shall be directed to the nearest Safety Division Area Office or Safety Division trooper.

2. Safety Division troopers, upon receipt of a complaint from a vehicle owner or operator that their inspection sticker has been stolen, lost or become damaged due to separation from the windshield, will make arrangements to meet the person to effect the replacement of the sticker. A vehicle owner or operator alleging theft of the inspection sticker will furnish proof to the Safety Division trooper that such theft has been reported to the proper law-enforcement authority.

3. The vehicle owner or operator must produce the original safety inspection approval sticker receipt indicating a valid approval inspection sticker was issued to the vehicle within the past 11 months. (The vehicle must be reinspected if the expiration of the original inspection sticker is in the month the request is being made.)

4. The Safety Division trooper will verify by the inspection receipt that the vehicle was issued an approval inspection sticker within the past 11 months and will then issue a replacement inspection sticker to the vehicle. If any obvious equipment defects are detected during the replacement process, the vehicle will not be issued a replacement approval sticker.

5. The Safety Division trooper will complete the inspection sticker receipt for the approval sticker from information contained on the original receipt. The date the replacement sticker is issued will be used in the date space. In the space for Inspection Related Charges, the trooper will insert the word "REPLACEMENT" and the sticker number from the original inspection receipt.

6. The Safety Division trooper will sign the receipt vertically in the O.K. column in the "Equipment Inspected" blocks. These blocks will not otherwise be completed.

7. The Safety Division trooper shall place month and year inserts on the inspection sticker to reflect the expiration as shown on the original approval inspection sticker and place the inspection sticker on the windshield in accordance with the requirements of subsection C of this section.

8. The Safety Division trooper will enter the replacement information into the MVIP system.

P. New vehicle safety inspections.

1. Section 46.2-1158.01 of the Code of Virginia allows an employee who customarily performs the inspection requirement of a manufacturer or distributor of new motor vehicles to place an inspection sticker furnished by the Department of State Police on the vehicle once it has met the requirements of that manufacturer or distributor. This employee does not have to be a certified safety inspector.

2. With the addition of other personnel using Department of State Police inspection supplies, a system shall be developed at each inspection station to afford accountability of all supplies. The system shall include proper safeguards to prevent the loss of supplies through carelessness, neglect, theft, or unauthorized use.

3. Inspection stations shall not mix annual state inspections with predelivery inspections (PDI) in the same book of inspection stickers.

4. All employees shall be reminded that anyone who performs inspections, whether it be for the annual inspection or the PDI inspection, is subject to criminal prosecution if inspection supplies are used illegally or used in some other unauthorized way.

5. Station management and licensed safety inspectors are subject to administrative sanctions for any misuse of inspection supplies.

6. The inspection receipts shall be completed as usual with the following exceptions: On the "inspector" line, the initials "PDI" (for predelivery inspection) and the printed employee's name performing the inspection shall be entered. On the "inspector's license number" line, the letters "N/A" shall be entered. In the equipment inspected section, the words "New Vehicle" shall be entered in the "adjust" column. The PDI employee performing the inspection shall sign his name in the "O.K." column.

Part III
Inspection Requirements for Passenger Vehicles and Vehicles Up to 10,000 Pounds (GVWR)

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.

B. A minimum of two wheels ~~or two wheels and drums~~, one front and one rear, must be ~~removed from~~ 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. ~~Two front wheels or two front wheels and drums must be removed from vehicles listed in subdivision 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: ~~Lug~~ 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 ~~paragraph~~ 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 linings or disc pads are worn to less than 2/32 of an inch over the rivet ~~head(s)~~ heads.

4. Bonded or molded linings or disc pads are worn to less than 2/32 of an inch in thickness.

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

6. Snap-on brake linings are loose.

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

9. Rivets in riveted linings are loose or missing.

10. Any lining or pad is misaligned or does not make full contact with the drum or rotor.

Brake Drums and Discs

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

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.

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.

12. 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

13. Cables are frayed or frozen.

14. Mechanical parts missing, broken, badly worn, or misaligned.

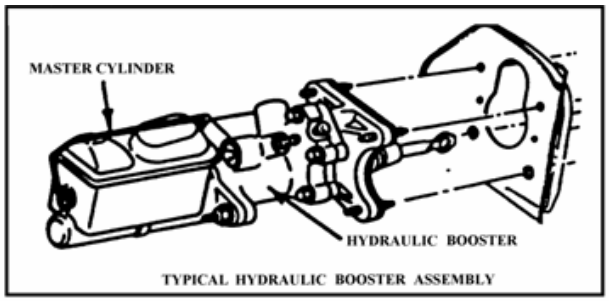
E. Hydraulic.

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.



TYPICAL HYDRAULIC BOOSTER ASSEMBLY

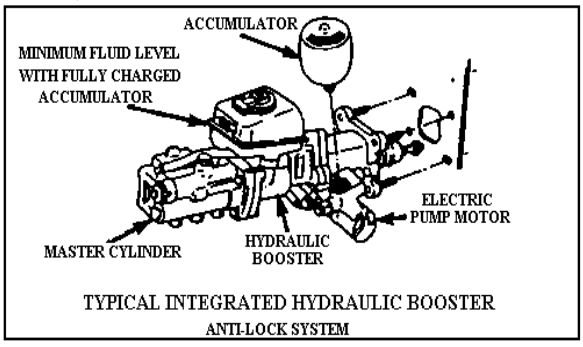
3. Condition of hydraulic booster power brake system. Inspect system for fluid level and leaks.

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.



TYPICAL INTEGRATED HYDRAULIC BOOSTER ANTI-LOCK SYSTEM

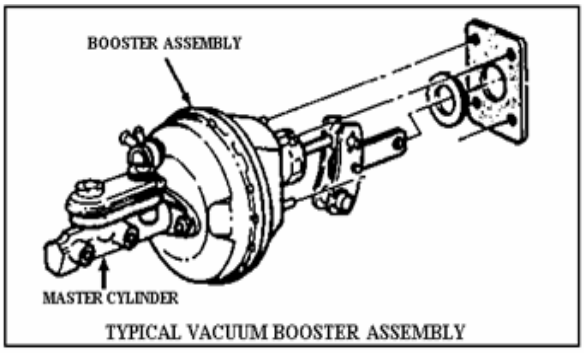
5. Condition of integrated hydraulic booster/anti-lock system with electronic pump. With the system fully charged, inspect system for fluid level and leaks.

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.



TYPICAL VACUUM BOOSTER ASSEMBLY

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 ~~wire or~~ 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.

19VAC30-70-90. Brakes: emergency, parking, or holding~~; batteries~~.

A. Some vehicles are equipped with an actual emergency brake, while others have only a parking or holding brake. Some types may be actuated by a foot or hand lever, while others may incorporate a switch or valve to actuate the brake. Air and vacuum brake systems may employ spring activating parking brakes.

B. Inspect for and reject if:

1. Vehicle or combination of vehicles is not equipped with a parking, holding, or emergency brake in good working order of the type installed as original standard factory equipment for the vehicle on which it is installed.

2. The parking brake actuating mechanism does not fully release when the control is operated to the off position or if the parking brake lamp light remains on.

NOTE: The light does not apply to vehicles that are not equipped with a parking (emergency) brake indicator light.

3. Any mechanical parts are missing, broken, badly worn, or are inoperative.

4. Cables are stretched, worn, or frayed or not operating freely.

5. Grease or similar-type contamination is present on the linings, drums, or rotors.

6. Parking brake will not hold the vehicle stationary with the engine running at slightly accelerated speed with shift lever in drive position for automatic transmission or shift lever in low gear with clutch engaged for standard shift transmission.

7. Holding brake will not disengage when engine is started and vehicle is placed in drive. Holding brake will not hold vehicle stationary with foot on holding brake and vehicle in drive.

8. On vehicles equipped with automatic transmissions, the vehicle will start in any gear other than (P) park and (N) neutral. If the gearshift indicator does not identify the park (P) and neutral (N) positions, then the vehicle shall be rejected.

9. On vehicles equipped with manual transmissions, the vehicle will start in any gear if the clutch is not depressed or disengaged.

NOTE: This will not apply to older model vehicles, which were not originally equipped with a neutral-safety switch, clutch disengagement system or clutch pedal position sensor by the manufacturer.

10. The accelerator does not disengage after being depressed, allowing the engine to return to a normal idle speed.

~~C. Battery mounting and storage. Inspect for and reject if:~~

~~1. A battery is not securely attached to a fixed part of the motor vehicle or trailer. A battery is not protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment.~~

~~2. All brackets, hardware, bolts, and bushings used for securely mounting the battery to the vehicle are not present.~~

~~3. Removable covers or enclosures are not substantial and are not securely latched or fastened.~~

~~4. The battery compartment does not have openings to provide ample battery ventilation and drainage.~~

~~5. Whenever the cable to the starting motor passes through a metal compartment, the cable shall be protected against grounding by an acid and waterproof insulating bushing.~~

~~6. Whenever a battery and a fuel tank are both placed under the driver's seat, (i) the battery and fuel tank are not partitioned from each other or (ii) each compartment is not provided with an independent cover, ventilation, and drainage.~~

19VAC30-70-110. Steering and suspension.

A. The steering and suspension systems installed and utilized on motor vehicles have evolved to where many different suspension systems are being designed, developed, and employed on vehicles. To properly inspect the steering and suspension on vehicles, it may be necessary for the inspection to be made in accordance with manufacturer's recommended procedures in addition to meeting any requirements outlined in this regulation.

B. Inspect for and reject if:

1. Any modification has been made that affects normal functioning of the shock absorbers. The inspector should operate the vehicle when in doubt. (If there is no evidence of the convolutions (coils) of the spring hitting one another, one pair (two) of nonmetallic coil spring stabilizers may be present in each of a vehicle's front coil springs, provided the installation of the stabilizers does not cause the springs to be higher than their original height.)

Shock absorbers in fully extended or compressed positions when the vehicle is stationary will not function normally.

2. The front end suspension has been modified by the use of lift blocks. (A lift block is defined as any solid piece of wood, metal, or other material placed between and

separating the vehicle's front axle and the springs.) This does not prohibit the use of shims that may be necessary to correct front end alignment.

3. Any modification has been made to the front end suspension which reduces turning radius, bypasses safety components of original steering mechanism or if there is any lateral movement between the axle and frame.

4. Any modification has been made to the suspension to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from collision.

Reject the vehicle if it has been modified by any means so as to raise its body more than three inches above the manufacturer's attachment points or the frame rail (exclude original manufacturer's spacers, washers or bushings when measuring).

5. Any modification has been made to cause the wheels to come in contact with the body or frame under normal operating conditions.

6. A motor vehicle has a repair kit or preventive maintenance kit installed on a tie rod end, idler arm, ball joint, or any other part of the vehicle's steering gear.

NOTE: The repair kit or preventive maintenance kit usually consists of a small coil spring and a plastic cap that is placed over the bolt stud of the component and held in place by a retaining nut. There is nothing in this paragraph that prohibits the replacement of parts or components of a motor vehicle's steering gear in order to correct deficiencies in the steering gear.

7. When checked visually, the wheels appear to be out of line or an axle is bent.

8. Any vehicle that shimmies or wanders at normal operating speeds.

9. Rack and pinion steering bellows (boot) is defective or missing. Do not inspect ~~CV~~ constant-velocity (CV) boots, CV joints, or universal joints on rear wheel drive vehicles.

NOTE: CV boots on the vehicle shall not be rejected if the CV boots are defective or missing.

10. Power steering is defective and affects adequate steering of the vehicle or power steering fluid in reservoir is below operating level, or if there is an obvious leak of power steering fluid. Do not reject for dampness.

NOTE: If the vehicle is equipped with power steering, the engine must be running during testing.

11. Power steering hoses have any cracks, crimps, or restrictions or are abraded, exposing inner fabric; tubing or connections leak or are crimped, restricted, cracked, or broken. Power steering tubing and hoses must be secured against chaffing, kinking, or other mechanical damage and be installed in a manner that prevents contact with the vehicle's exhaust system or any other source of high temperatures.

12. Power steering belt does not have sufficient tension, is frayed, or missing. The serpentine belt should only be rejected if a chunk of the ribbing is missing or a deep cut or crack exposes the inner fabric of the belt. (Do not reject for the many little surface cracks that appear in the ribs or back.)

13. Any modification has been made to any part of the steering or suspension system that affects proper steering or suspension or any part of the original suspension system has been disconnected.

NOTE: "All thread rod material" shall not be used as U-bolts in the suspension system.

Vehicles registered as street rods may substitute any part of the original suspension system provided the components are installed in accordance with the component manufacturers' specifications.

14. Any modification or replacement has been made to the steering wheel that affects proper steering. The steering wheel shall be rejected if the outside diameter is less than 13 inches unless original factory equipment.

15. Steering column has any absence or looseness of bolts or positioning parts, resulting in motion of the steering column from its normal position.

16. A spring is broken, sagging or misaligned, shackles are worn or loose, or if air bags are collapsed or the air suspension system leaks or is deflated.

CAUTION: Underneath inspection of a vehicle equipped with air suspension with excessive leak down could result in serious personal injury.

17. Shock absorbers or cross stabilizer links are disconnected, broken, bent, loose, or do not function properly on vehicles with this design.

18. Any front or rear axle or suspension positioning parts are cracked, broken, loose, worn, bent or missing, resulting in shifting of an axle from the normal position. Any control arm or suspension positioning part using bushings for control, support and normal functioning is ~~deteriorated, damaged or~~ missing the bushing or the bushing is worn to the extent that the component can be moved by hand along the axis of the component.

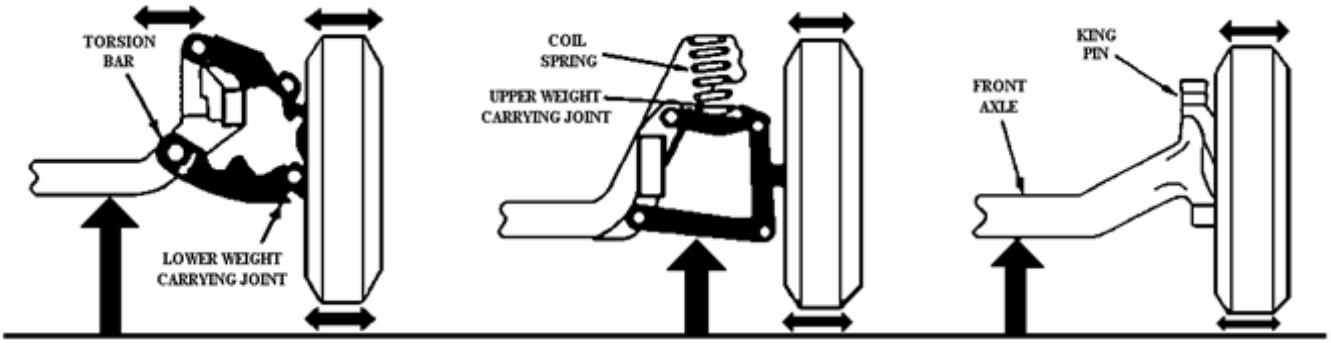
NOTE: All rear suspension parts including but not limited to control arms (upper and lower ball joints, radius or torque arms, stabilizer bars, and trailing arms) shall not have any damage or noticeable play when checked with hand pressure.

19. A MacPherson strut installed on a motor vehicle is broken, bent, loose or does not function properly.

NOTE: Do not reject a shock absorber or MacPherson strut unless there is evidence of leakage that causes the device not to function properly.

Wheel Size:	less than 17 inches -	1/4 inch
	17 to 18 inches -	3/8 inch
	over 18 inches -	1/2 inch

20. If vehicles measured movement at top or bottom of tire is greater than:



Proper lifting for wheel bearing, steering linkage looseness, and king pin play action

FIGURE A FIGURE B FIGURE C

NOTE: King pin play. If vehicle is equipped with king pins, first eliminate all wheel bearing movement by applying service brake. With front end lifted as illustrated for inspecting wheel bearings (Figure C), grasp the tire at the top and bottom and attempt to move it in and out to detect looseness. Measure the movement at the top or bottom of the tire at the outer circumference.

C. Wheel bearing/steering linkage.

Reject vehicle if any wheel bearing is excessively worn or not properly adjusted; any cotter key or other locking device is missing or inoperative.

NOTE: Lifting techniques vary for measuring wheel bearing movement. On vehicles with coil spring or torsion bar on lower support arm - hoist at frame (Figure A). On vehicles with coil spring on upper support arm - hoist at lower support arm (Figure B). On front wheel drive vehicles, the inspector must consult manufacturer's lifting information.

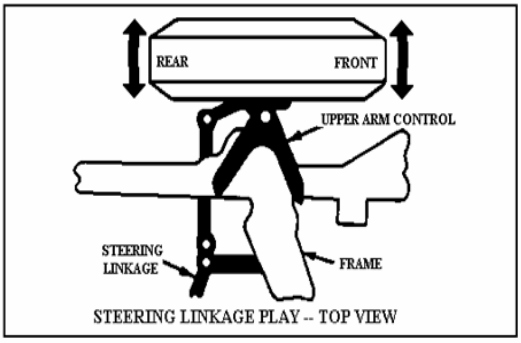
NOTE: With vehicle lifted properly, grasp tire at top and bottom, rock in and out and record movement. Wheel bearing looseness is detected by the relative movement between the brake drum or disc and the braking plate or splash shield.

CAUTION: If air suspension vehicles are hoisted via body support area, air spring damage may occur if the air suspension switch is not turned off. Reject vehicle if relative movement between drum and backing plate (disc and splash shield) is more than 1/8 inch measured at the outer circumference of the tire.

D. Steering linkage play.

1. Reject vehicle if measured movement at front or rear of tire is greater than:

Wheel Size:	16 inches or less -	1/4 inch (6.5mm)
	17 to 18 inches -	3/8 inch (9.5mm)
	over 18 inches -	1/2 inch (13mm)



STEERING LINKAGE PLAY -- TOP VIEW

NOTE: First eliminate all wheel-bearing movement by applying service brake. With vehicle lifted as shown in the diagram and wheels in straight-ahead position, grasp front and rear of tire and attempt to move assembly right and left without moving the steering gear.

2. Reject vehicle if the steering mechanism is unusually tight or binding when turning the steering wheel

completely to the left or right or the steering mechanism will not turn in both directions stop to stop.

3. Reject vehicle if the steering stops have been removed or adjusted in so that steering radius is reduced.

E. Steering lash/travel. Reject vehicle if inspection reveals excessive wear ~~and/or~~ or looseness in any ball stud, end assembly, pivot point, mechanical linkage ~~and/or~~ or if steering gear box has any loose or missing bolts, or excessive wear, ~~and/or~~ or looseness is found at any other location in the steering that adversely affects the steering of the vehicle.

NOTE: For vehicles equipped with power steering, the engine must be running and the fluid level, belt tension and belt condition must be adequate before testing.

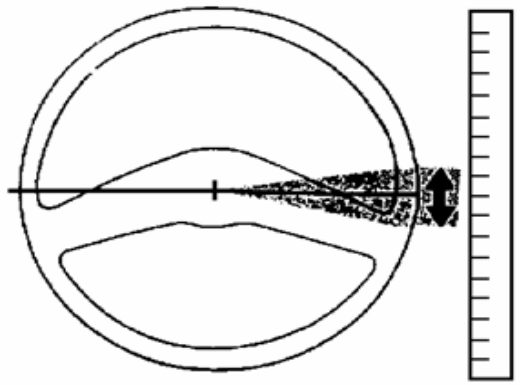
With road wheels in straight ahead position, turn steering wheel until motion can be detected at the front road wheels. Align a reference mark on the steering wheel with a mark on a ruler and slowly turn steering wheel in the opposite direction until motion can again be detected at the front road wheel (see diagram). Measure lash at steering wheel. Special lash-checking instruments may be used to measure free play in inches or degrees. Such instruments should always be mounted and used according to the manufacturer's instructions. Reject vehicle if steering wheel movement exceeds:

Power - 2 inches

Manual - 3 inches

Rack & Pinion - (Power or Manual) - 0.4 inch - see note

NOTE: No play is permissible for Volkswagen and Audi vehicles - consult respective manufacturer's specifications.



STEERING LASH

F. Steering lash/travel; trucks.

NOTE: Before inspection, the vehicle must be placed on a smooth, dry, level surface. For vehicles equipped with power steering, the engine must be running and the fluid level, belt tension and belt condition must be adequate before testing. With road wheels in straight ahead position, turn steering wheel until motion can be detected at the front road wheels. Align a reference mark on steering wheel with a mark on a ruler and slowly turn steering wheel in the opposite direction until motion can be detected at the front road wheel. Measure lash at steering wheel. Special lash-checking instruments are also available, measuring free play in inches or degrees. Such instruments should always be mounted and used according to the manufacturer's instructions. With vehicle raised, visually inspect steering linkage, ball studs, tie rod end socket assemblies and all pivot points.

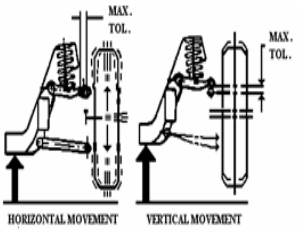
NOTE: On vehicles with power steering, engine must be running.

Reject vehicle if steering wheel movement exceeds:

Steering Wheel Size and Lash

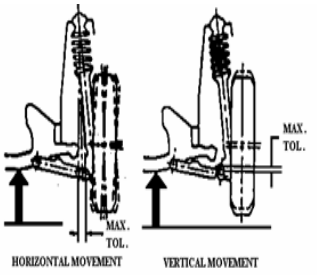
Steering wheel diameter	Power steering system	Manual steering system
16 inches or less	2 inches (51 mm)	4-1/4 inches (108 mm)
18 inches	2-1/4 inches (57 mm)	4-3/4 inches (121 mm)
19 inches	2-3/8 inches (60 mm)	5 inches (127 mm)
20 inches	2-1/2 inches (64 mm)	5-1/4 inches (133 mm)
21 inches	2-5/8 inches (67 mm)	5-1/2 inches (140 mm)
22 inches	2-3/4 inches (70 mm)	5-3/4 inches (146 mm)

G. Ball joint wear (front and rear). There is a trend among U.S. automobile manufacturers toward the use of "wear-indicating" ball joints. Many vehicles on the road, however, do not have wear-indicating ball joints. The inspection of both types will be discussed. With the broadening use of rear suspension ball joints, their inspection shall be made in accordance with manufacturer's recommended procedures. Figures 1, 2, 3 and 4 illustrate the proper hoisting for checking most ball joints. On late model vehicles, it may be necessary to check for both horizontal and vertical movement. Figures 1, 2, 3 and 4 illustrate the proper hoisting for checking ball joints.



SPRING ON UPPER CONTROL ARM

FIGURE 1



MACPHERSON STRUT

FIGURE 2

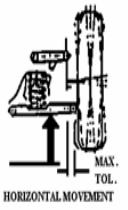


FIGURE 3

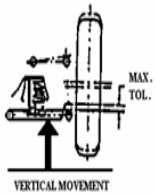


FIGURE 4

SPRING OR TORSION BAR ON LOWER CONTROL ARM

RAISING POSITIONS FOR SUSPENSION SYSTEMS

NOTE: To check ball joint wear on vehicles when the spring is supported on the upper control arm or when the spring is a part of a MacPherson strut or wear in any other type suspension not using ball joints when the front wheels are suspended on a solid axle, the vehicle must be hoisted as shown in Figure 1 or 2.

NOTE: Upper control arm must be stabilized in normal load carrying position by means of an upper control or other support tool to insure ball joint is in unloaded position.

NOTE: To check ball joint wear on vehicles not listed in above referred to section and diagram or tables when the spring is supported on the lower control arm; and to check the king pin wear in any other type suspension not previously described when the wheels are independently suspended, the vehicle must be hoisted as shown in Figure 3 or 4.

H. Ball joints without wear indicators (front and rear).

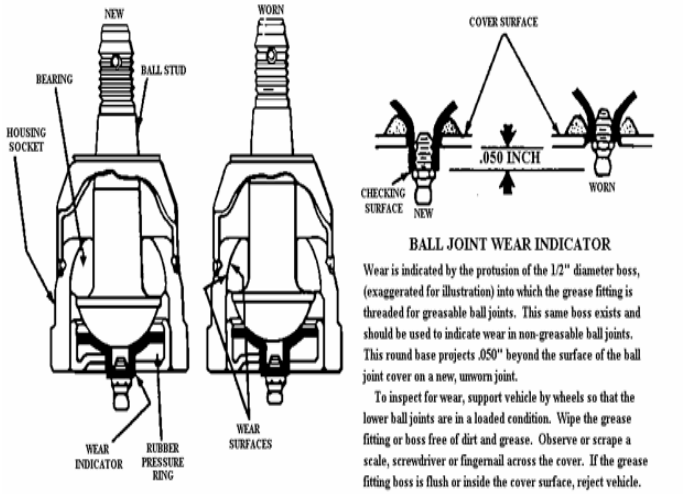
1. If play is detected in any ball joint without "wear-indicating" ball joints, it will be necessary for the inspection to be made in accordance with the manufacturer's recommended procedures and specifications prior to rejecting the vehicle.

2. If there are no manufacturer's recommended procedures and specifications, the lower ball joints will be checked when hoisted as in Figure 1 or 2 of subsection G of this section, or in the upper ball joints when hoisted as in Figure 3 or 4 of subsection G of this section. There should be no noticeable play detected in the ball joints when checked in this manner.

3. Reject vehicle if play exceeds the manufacturer's specifications. Inspectors shall use a dial indicator or ball joint checking gauge when checking for play of a ball joint, when procedures and specifications are provided by the manufacturer.

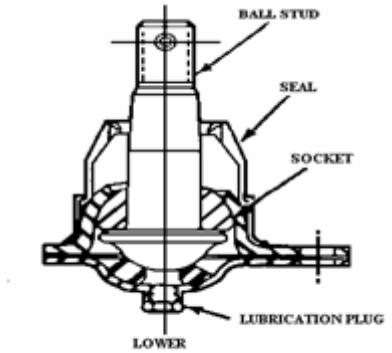
I. Ball joints with wear indicators. Support vehicle with ball joints loaded (in normal driving attitude). Wipe grease fitting and checking surface free of dirt and grease. Determine if checking surface extends beyond the surface of the ball joint cover.

Reject vehicle if checking surface is flush with or inside the cover surface.



J. American Motors Pacer (only). Position vehicle on level surface. Remove lubrication plug from lower ball joint. Check lower ball joint clearance by inserting stiff wire or thin rod into lubrication plug hole until it contacts ball stud. Accurately mark rod with knife or scriber where it aligned with outer edge of plug hole. Distance from ball stud to outer edge of plug hole is ball joint clearance. Measure distance from mark to end of rod. (Anything less than 7/16 inch is acceptable.)

Reject vehicle if distance measured is 7/16 inch or more.



AMC PACER LOWER BALL JOINT

K. Chrysler front-wheel drive vehicles (lower only). With the weight of the vehicle resting on the road wheels, grasp the

grease fitting as shown below and attempt to move fitting. No mechanical assistance or added force is necessary.

Reject vehicle if grease fitting shows any movement.



CHRYSLER FRONTWHEEL DRIVE – LOWER BALL JOINT

19VAC30-70-120. Frame, engine mounts, coupling devices and emergency chains.

Inspect for and reject if:

1. Frame or unitized (monocoque) body of any motor vehicle, trailer or semitrailer ~~is~~ possesses one or more of the following defective characteristics: rust holes; any area of the frame or its components is broken, cracked, sagging, or bent; or damaged at any location~~, including~~ to include any welded joint ~~or is rusted or~~; the frame is corroded to the point ~~the frame~~ where it is weakened ~~as to reasonably constitute a hazard during the operation of the vehicle~~; or any holes are drilled in the top or bottom rail flanges of the frame or the frame or cross-member (except as specified by the manufacturer).

NOTE: Any welded repair of the frame must be in accordance with the vehicle manufacturer's recommendations.

NOTE: All sections of a unitized frame are considered stress-bearing to include pinch and side rails, floors, and all support framework.

2. Engine or transmission mounts and hardware is broken or missing. This includes all hardware bolts and bushings used for mounting to the vehicle's frame, engine, or transmission. Any engine or transmission mount shall be rejected if they allow the power train to come in contact with the firewall or other body parts. Any body, truck bed, or bumper mounts or mounting hardware shall be rejected if they do not properly secure these components to the frame as originally designed.

3. Trailer hitch or pintle hook is not securely attached. Reject if the pintle eye or trailer drawbar has any cracks or if any welding repairs have been made to the pintle eye.

4. Chains, cables, etc., used to attach a towed vehicle are not securely attached or are broken, worn or abraded.

5. Fifth wheel does not lock in position or have a locking mechanism in proper working order.

6. Fifth wheel assembly system has any leak of fluid or air.

7. Fifth wheel has any broken, missing, or damaged parts; or is not securely attached to the frame.

8. Trailer king pin is not secure, or is broken or worn so as to prevent secure fit in fifth wheel.

9. Any movement is detected at any location where any device has been placed between the body and the chassis.

10. Trailer is not equipped with an emergency chain or steel cable.

NOTE: Fifth wheel assembly system does not require an emergency chain or cable. A fifth wheel is defined as a device which interfaces with and couples to the upper coupler assembly of a semitrailer. The upper coupler assembly is a structure consisting of an upper coupler plate, king pin and supporting framework which interfaces with and couples to a fifth wheel. Ball and socket connections also referred to as hitch and coupling connections are not fifth wheel assemblies and do require an emergency chain or steel cable.

19VAC30-70-130. Tires; wheels; rims.

Inspect for and reject if:

1. Any tire is marked specifically for use other than on the highway such as "For Farm Use Only," "For Off-Highway Use Only," "For Mobile Home Use Only," or "For Trailer Use Only."

EXCEPTION: "For Trailer Use Only" tires are allowed when installed on trailers only.

2. A radial tire is mismatched on the same axle with a bias ply tire or a bias belted tire.

3. Bias ply or bias belted tires are used on the rear axle when radial ply tires are used on the front axle.

EXCEPTION: On a two-axle vehicle equipped with truck tires with 20-inch rim diameter and larger, bias or radial tires may be used on either axle if the vehicle has dual rear wheels or is equipped with wide-base single tires.

4. A vehicle has installed on any axle a space saver emergency spare tire that is intended for temporary use.

5. Any motor vehicle, trailer or semitrailer, except the dual wheels installed on motor vehicles having seats for more than seven passengers (i) operated wholly within a municipality or (ii) operated by urban and suburban bus lines, which are defined as bus lines operating over regularly scheduled routes and the majority of whose

passengers use the buses for traveling a distance not exceeding 40 miles, measured one way, on the same day between their place of abode and their place of work, shopping areas, or schools, is equipped with a tire that has a tread depth measuring less than 2/32 of an inch when measured as follows:

NOTE: The exemptions provided in (i) and (ii) of this ~~paragraph~~ subdivision 5 do not apply to buses owned or operated by any public school district, private school or contract operator of buses.

NOTE: Measure in two adjacent tread grooves where tread is thinnest. Refer to Figure 1. If either of the grooves measure 2/32 of an inch or more, no further measurements are necessary and tread depth is satisfactory. Do not take measurements from the tread wear indicators.

6. If both adjacent grooves measure less than 2/32 of an inch, the tire tread depth must be measured again at two additional equally spaced intervals around the circumference of the tire in a like manner as the first measurement. Refer to Figure 1. If the tread depth is less than 2/32 of an inch in two adjacent tread grooves at each of the equally spaced intervals, the tire must be rejected.

MEASURE WHERE THE TREAD IS THINNEST IN TWO ADJACENT TREAD GROOVES

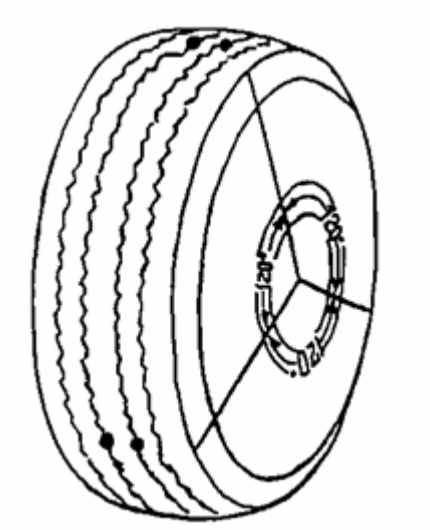


FIGURE 1

IF THE DEPTH IS LESS THAN 2/32-INCH IN BOTH GROOVES, MEASURE AT TWO ADDITIONAL EQUALLY SPACED INTERVALS

7. A tire equipped with tread wear indicators if found to have such indicators in contact with the pavement in any two adjacent grooves at three equally spaced intervals around the circumference of the tire. Refer to Figure 2.

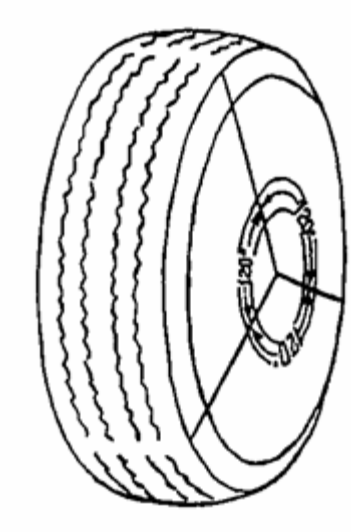


FIGURE 2

REJECT IF THE TREAD WEAR INDICATORS ARE IN CONTACT WITH THE PAVEMENT IN ANY TWO ADJACENT GROOVES AT THREE EQUALLY SPACED LOCATIONS

8. Any tire has a cut or puncture into the fabric. This does not include a plug or patch that may be used as a manner of repair.

NOTE: ~~Plugs/patches~~ Plugs or patches shall be in the tread area only. ~~Plugs/patches~~ Plugs or patches are not permitted in the sidewall of the tire.

9. Any tire is worn so that the fabric or steel cord is visible.

10. Any tire has knots or bulges in its sidewalls or if there is evidence of a broken belt under the tread, or if the tread is separating from the fabric. Any cracks in the sidewall where separation in the rubber is detected or the fabric is exposed, not to include fine hairline cracks.

11. Any tire that has been recut or regrooved except commercial tires so designed and constructed to provide for acceptable and safe recutting and regrooving. (Regrooved tires must be identified on each sidewall as a regrooved tire.)

12. Any wheel studs, bolts, nuts, lugs, or other fasteners (both spoke and disc wheels) are loose, broken, cracked, stripped, missing, damaged, or otherwise ineffective.

13. Wheels are installed on the vehicle in a reversed position, except the wheels on vehicles that are reversed to perform part of a dual wheel combination.

14. Directional tires ~~and/or~~ or wheels designed and manufactured to travel in one direction of rotation are not properly installed.

15. Rims or wheels are bent, cracked, or damaged so as to affect safe operation of the vehicle. Reject if lug nut holes are elongated (out of round).

NOTE: Refer to subdivision 1 of 19VAC30-70-180 (Clearance lamps and reflectors) for tires that exceed more than four inches from the body.

19VAC30-70-140. Headlamps; except motorcycles.

A. Inspect for and reject if:

1. Any motor vehicle is not equipped with at least two headlamps of an approved type. The headlamps must be marked with the headlamp manufacturer's name or trademark, and DOT. If the headlamp bulbs are replaceable, the headlamp lens must be marked with the headlamp light source type (bulb) for which it was designed and the bulb must match the lens code.

NOTE: If the headlamp system is stamped to accept halogen bulbs, then the replacement bulbs must be halogen as well. Retrofitting an HID or LED bulb to a halogen headlamp system does not conform to the standards set forth by the Federal Motor Vehicle Safety Standards (FMVSS) and shall be rejected.

If the entire headlamp assembly is changed from a halogen system to an LED system and does not require the manufacture's original wiring to be cut or compromised, then it shall be considered for inspection if it meets the requirements of subdivision A 2 of this section.

2. Headlights are not of the same approved type (Halogen, HID, LED, etc.) except for sealed beam headlamps~~. At least two headlamps are required~~, or the replacement headlamp system does not contain all properly marked DOT and SAE stamps certifying that it has met and complied with the standards set forth by the Federal Motor Vehicle Safety Standard (FMVSS) 108.

NOTE: Replacement headlamps stamped with a DOT or SAE approval shall be considered approved by the Superintendent of State Police and will not be required to be listed on the Virginia Motor Vehicle Approved Equipment List.

3. In any headlamp the lens is cracked, broken, discolored, or rotated away from the proper position, or the reflector is not clean and bright.

4. Moisture or water buildup in headlamp is such that it affects the aiming pattern.

5. Headlamps omit light other than white. Light tints of color may be acceptable if the headlamp and headlamp bulbs are marked as required.

6. Bulbs are not of an approved type and marked with all of the following: light source type, the manufacturer's name or trade mark, and DOT.

NOTE:

Approved headlamp bulbs: HB1, HB2, HB3, HB3A, HB4, HB4A, HB5, H1, H3, H7, H8, H8B, H9, H9B, H9C, H11, H11B, H11C, H13, H13C, H15, HIR1, HIR2, H18, H19.

Approved headlamp bulbs that require ballast: 9500, D1R, D1S, D2R, D2S, D3R, D3S, D4R, D4S, D5S, D7S, D8S, D9S.

Approved headlamp ballasts must be marked with the light source type (bulb) and DOT. The bulb type marked on the ballast must match the marking on the headlamp lens.

7. Any filament or bulb in headlamps fails to burn properly or headlamps are not at the same location or configuration as designed by manufacturer. (Location and type of headlamps can be found in subsection E of this section.)

8. Wiring is dangling or connections are loose~~;~~, or if proper filaments do not burn at different switch positions; or if switches, including foot or hand dimmer, do not function properly and are not convenient to the driver.

9. Foreign material is placed on or in front of the headlamp lens or interferes with the beam from the lamp. No glazing may be placed over or in front of the headlamps unless it is a part of an approved headlamp assembly.

a. Reject if 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 headlamps.

b. Vehicles registered as street rods may have clear, rigid plastic or glass headlamp lens covers in front of sealed beam units to replace original manufacturer's equipment.

EXCEPTION: A clean impact film known as Headlight Savers produced by Grand Prix Motoring Accessories may be applied to the headlight lens to absorb impact of rocks, etc.

10. Lamps can be moved easily by hand due to a broken fender or loose support, or if a good ground is not made by the mounting.

11. Headlamps, auxiliary driving lamps and front fog lamps are not mounted so that the beams are aimable and the mounting does not prevent the aim of the lighting device from being disturbed while the vehicle is operating on public roads. All lamps shall be securely mounted on a rigid part of the vehicle.

12. A headlamp visor is over two inches long unless part of the original body design.

13. The high beam indicator in the driver's compartment does not burn when the high beam is on or does not go off when the low beam is on. (Vehicles not originally equipped with an indicator are not required to comply unless sealed beam headlamps have been installed.)

B. Aiming the headlamps.

1. ~~Headlamps~~ Inspectors shall rely on their education, training, and experience to determine if the headlamps are properly aimed. If improper alignment is observed, headlamps shall be checked for proper aim by using an optical headlamp aimer ~~on every motor vehicle inspected~~, except on vehicles equipped with on-board aimers.

Headlamp aim on vehicles with on-board aimers shall be checked by visually examining the leveling device mounted either on or adjacent to the headlamp. Reject the vehicle if the leveling device shows the headlamp adjustment to exceed indicated specifications.

NOTE: Driving lamp and fog lamps must be ~~aimed using the optical aimer, according to instructions in 19VAC30-70-160 I 10 i and 11 g (2)~~ visually inspected to ensure proper aiming. If improper alignment is observed, the optical aimer shall be used to correct any misalignment.

2. Headlamps are not aimed within the following tolerances using the optical aimer.

a. The center of the hot spot of all single element high beam lamps is set more than four inches up or down from the horizontal centerline or more than four inches to the left or right from the vertical centerline.

b. The left edge of the lamp pattern of any low beam lamp or any combination or multi-element lamp is more than four inches to the left or right of the vertical centerline or the top edge of the lamp pattern is more than four inches above or below the horizontal centerline when checked on low beam.

C. Optical aimer.

1. ~~Approved optical headlamp machines shall be used to properly aim all headlamps, except vehicles with on-board aimers.~~ Optical aimers must be properly calibrated and used in the manner recommended by the manufacturer.

The optical headlamp machine must be aligned to the vehicle in accordance with the manufacturer's specifications.

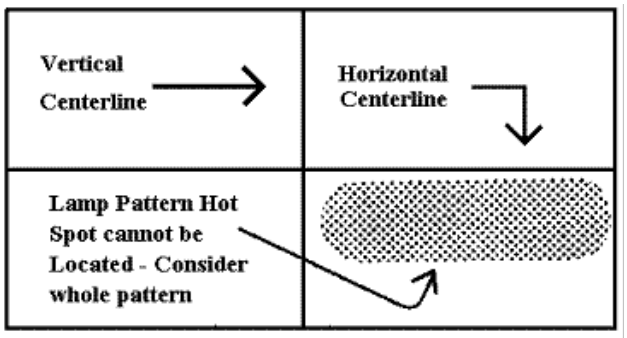
2. When aiming headlamps, first look for the type of lamp, which will be found embossed on the lens. The type determines which aiming requirements must be followed for the optical aimer.

3. All low beam or combination/multi-element headlamps must be set by aiming the lamp pattern with the lamps set on low beam.

NOTE: If attempting to align a composite or sealed beam lamp with a high and low beam within the same housing, align only the low beam. If aligning a four-lamp system with high and low beams in separate housings, it may be necessary to cover the low beam while aligning the high beam, if all four lamps are on at the same time.

4. Pattern should be aimed so that the left edge does not extend to the left or right of straight ahead, and the top of the pattern should be even with the horizontal.

Pattern "A" represents the light pattern as it should appear on the view screen of the approved aimer when checking the low-beam pattern on a single element headlamp or a combination multi-element headlamp.



PATTERN A - COMBINATION MULTI-ELEMENT OR LOW BEAM LAMP

5. All VOL and VOR headlamps will be aimed as follows:

To properly aim a combination multi-element or low-beam VOL or VOR headlamp assembly, the headlamp pattern should be aimed on low beam only.

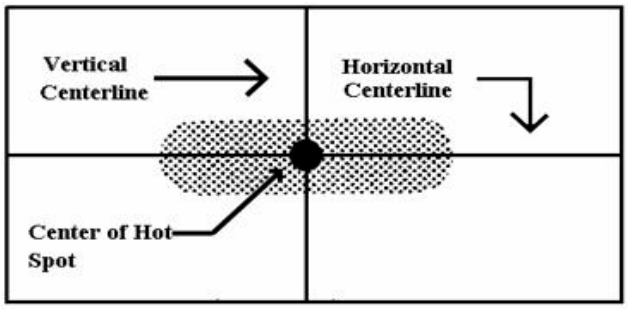
Letters marked on the headlamp cover should properly identify VOL and VOR headlamps.

NOTE: VOL and VOR headlamps will normally have only one adjustment, which will be for the vertical aim only. The horizontal aim should be disregarded, as the horizontal aim is preset at the factory.

6. All single element high beam headlamps shall be set by aiming the center of the hot spot with the lamps set on high beam.

7. Aim straight ahead-center of the hot spot should be centered with the vertical and horizontal centerlines.

Pattern "B" represents the light pattern as it should appear on the view screen of the approved aimers.



PATTERN B - SINGLE ELEMENT HIGH BEAM LAMP

8. When lamp pairs are mounted horizontally, the low beam lamp must be on the outer side and when mounted vertically, the low beam lamp must be at the higher position in the pair.

9. The four headlamp system must be wired so that only the lower beam lamp will burn when the light beams are depressed. When switched to high beams, both high beam and low beam may burn.

The "F" type halogen headlamp 1986 (LF-UF) of the four headlamp system will function in the following manner: system must be used so the low beam does not burn with the high beam.

D. Headlamps on vehicles used for snow removal. Approved auxiliary headlamps may be mounted above the conventional headlamps. (These lamps must be in compliance with this section in its entirety, subdivision 7 of 19VAC30-70-150, and 19VAC30-70-170.)

E. Inspect for and reject if:

1. Lamps are not an approved type as previously indicated in ~~section~~ subdivision A 6 of this section.

2. Lamps are not mounted in a manner that will permit proper aiming.

3. Lamps are mounted so as to obstruct the driver's vision.

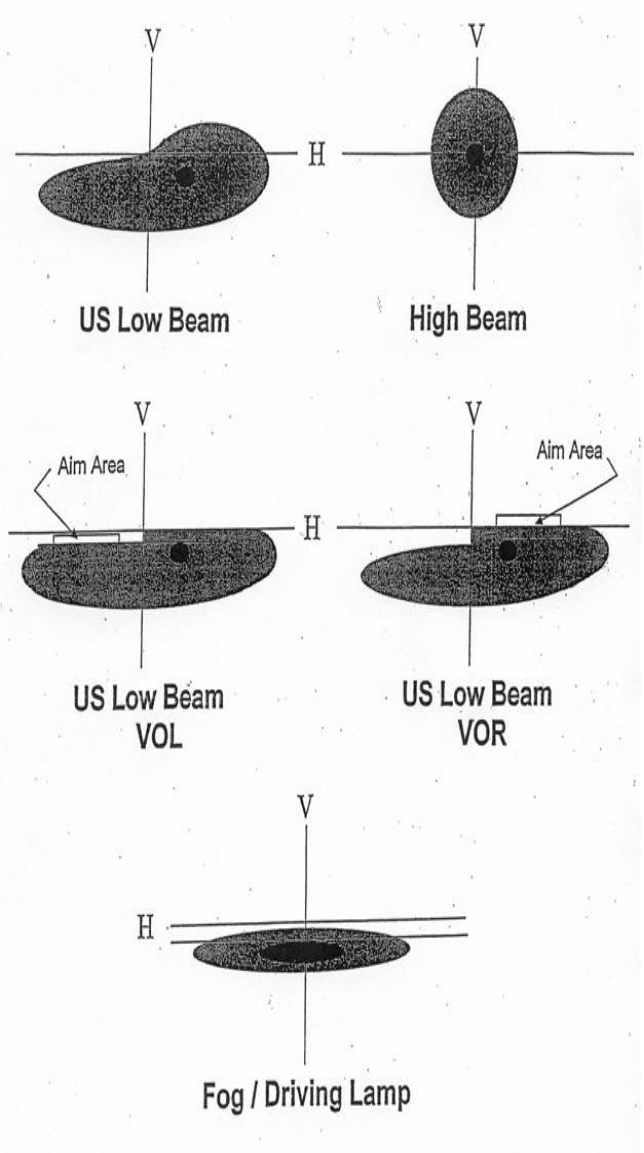
4. The auxiliary headlamp circuit does not contain a switch that will deactivate the primary headlamp system when the auxiliary headlamps are in use.

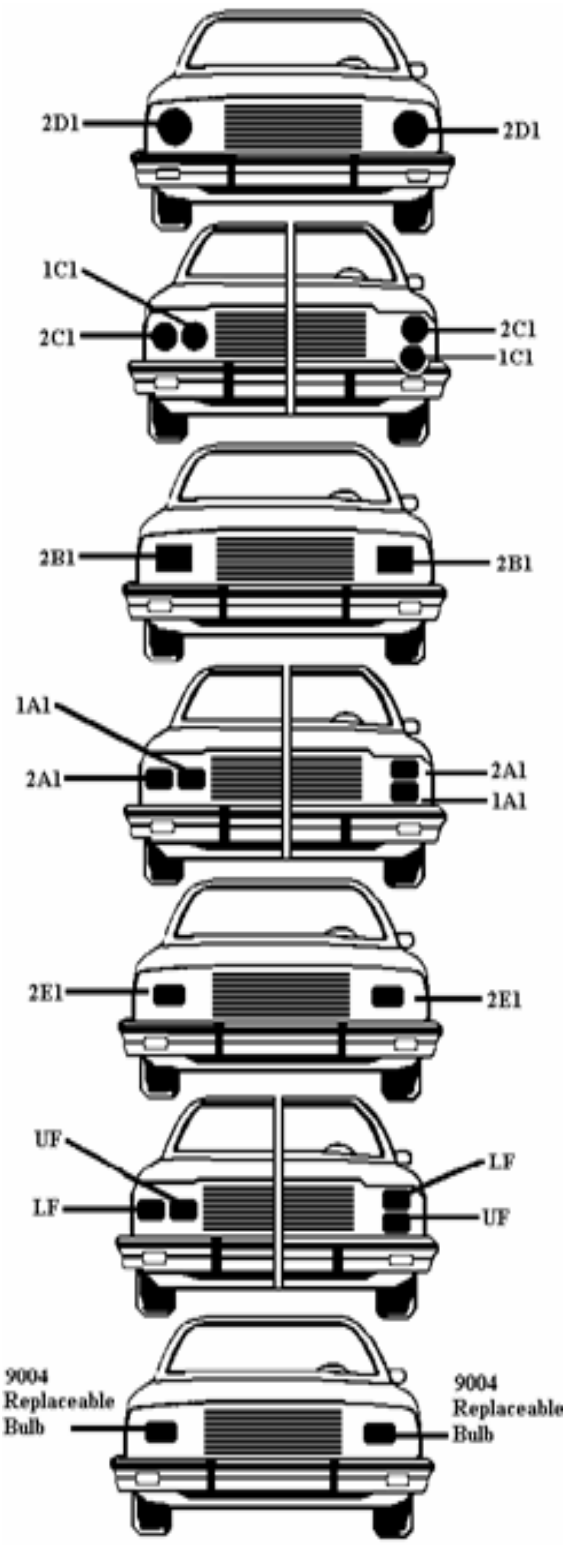
5. Auxiliary headlamps are not aimed in accordance with the provisions of subdivision B 2 of this section.

6. Headlamps are not wired in accordance with the provisions of subdivision C 8 of this section.

NOTE: Light patterns shown in the following diagram will be displayed on the most recently approved light machines produced by Hopkins and Symtech Corporations.

HEADLAMP PATTERNS





Locations of Type 1, Type2, LF/UF, and Replaceable Bulb Headlamps

NOTE: Always inspect the following sealed beam and replaceable bulb and integral beam headlamps on LOW BEAM only:

- 5-3/4 inch, marked 2, 2C, or 2C1

- 7 inch, marked 2, 2D, or 2D1

- 100 X 165mm rectangular, marked 2A, 2A1, or 2E1, 2G1 or 2H1

- 200 X 142mm rectangular, marked 2B or 2B1

- Replaceable bulb headlamp, marked LF with 9004 (HB1)

- 92 X 160mm rectangular, marked LF

- Replaceable bulb headlamps with 9006 (HB4) alone or in combination with 9005 (HB3)

- 55 X 135mm rectangular, marked L

- Integral beam headlamp when high and low beam reflectors move together.

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. ~~The approval designation letters that must appear are DOT or SAE A I S T P for single lamps, DOT or SAE A I S T P R with a backup light, DOT or SAE A I S T P P2 R with a wrap around side marker lamp and backup light.~~

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 ~~of an approved type (DOT or SAE L)~~ 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 ~~an approved~~ a license plate lamp that emits a white light.

5. Lens on rear lamps, or lens area in combination rear lamps (tail lamps) are not red ~~or contain a dot of another color~~. LED (light-emitting diode) lights with a clear lens are acceptable ~~if of an approved type~~. ~~For those vehicles that are~~ Vehicles equipped with ~~a~~ multiple LED ~~light~~ lights (not filament-burning bulbs)~~, they~~ 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. 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. 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 ~~wrap-around~~ 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. 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. 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. 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).

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

E. Approved type ~~(DOT or SAE-W)~~ (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.

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 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.

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.

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 red, red and white, blue, or blue and red 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.

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 ~~(DOT or SAE-W)~~ (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.

I. 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.

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

Reject if 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 any auxiliary lamps: backup, cornering, driving, fog, spot, or warning lamps.

5. 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. 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. 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. 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. 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 ~~(DOT or SAE-R)~~ (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.

11. 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 ~~(DOT or SAE-K)~~ (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 is other than clear or amber;

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

12. 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;

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.

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. 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 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. 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 ~~(DOT or SAE-O)~~ (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. Taping or gluing cracks or pieces is not permitted;

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

15. 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;

e. The color is other than white to 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.

19VAC30-70-180. Clearance lamps, side marker lamps, and reflectors.

Inspect for and reject if:

1. Any motor vehicle, trailer, semitrailer or other vehicle is not equipped with clearance lamps if the vehicle is over seven feet wide or if any portion extends four inches or more outside the front fender line.

NOTE: See 19VAC30-70-550 for vehicles exceeding 10,000 GVWR.

When a motor vehicle with a trailer attached is presented, the combination may be considered as one unit in meeting this requirement. If presented separately, the individual unit must meet these requirements.

2. Lamps ~~(DOT or SAE P2, P3, PC, or PC2)~~ or reflectors ~~(DOT or SAE A or B)~~ are not of an approved type or a lamp has been altered; any wires are exposed; ~~Reject if the vehicle has wire,~~ unapproved ~~lens~~ lenses or plastic covers~~,~~; or any other materials that are not original equipment or any colored material placed on or in front of lamps or reflectors.

3. Lenses ~~on~~ or lamps on the front are not amber and lenses on lamps on the rear are not red or if a lens has a piece broken from it. A 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.

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-emitting diode) light (not filament-burning bulbs)~~,~~: they will pass inspection if more than 50% of the diode lights are burning.

4. Wiring or electrical connections are defective, all filaments do not burn.

5. Two amber lamps are not mounted on the front and two red lamps on the rear, so as to indicate the extreme width

of the body, and as high on the permanent body as practical, except that approved 180 degree lamps with yellow or amber lens may be mounted on the side of the vehicle at or as near the front as possible, or if the front is not the widest portion, the lamps may be installed on the side and as near that point as possible. And with the further exception that 180 degree lamps with red lens may be mounted on the side of the vehicle at or as near the rear as possible or if the rear is not the widest portion of the vehicle, the lamps may be installed on the side as near that point as possible.

6. Any vehicle equipped with three red identification lamps with the lamp centers spaced not less than six inches or more than 12 inches apart and installed as close as practicable to the top of the vehicle and as close as practicable to the vertical centerline of the vehicle may have the rear clearance lamps required by subdivision 5 of this section, mounted at any height but indicate as nearly as practicable the extreme width of the vehicle.

NOTE: Other specially constructed vehicles may be equipped with the required clearance lamps not mounted on the extreme rear, provided such red lamps are clearly visible from the rear and provided further that two red reflectors of an approved type are mounted on the extreme rear. In unusual cases the rear lamp may be mounted on the cab and another red reflex reflector placed on the extreme rear.

NOTE: In addition to the required clearance lamps showing to the front and to the rear, a vehicle may be equipped with side marker lamps on the side of the vehicle. When such an installation is used, all of the clearance lamps on the side except the one at or near the rear must have an amber lens. The side marker lamps on the side at or near the rear must have a red lens.

7. Any vehicle covered by subdivision 1 of this section, except school buses, is not equipped with amber reflectors on the sides as near the front as practical, and red reflectors on the rear. The reflectors must be at least 15 inches and not more than 60 inches from the ground. No reflector can have a piece broken from its reflective surface, but may have one or more cracks. Taping or gluing cracks or pieces is not permitted.

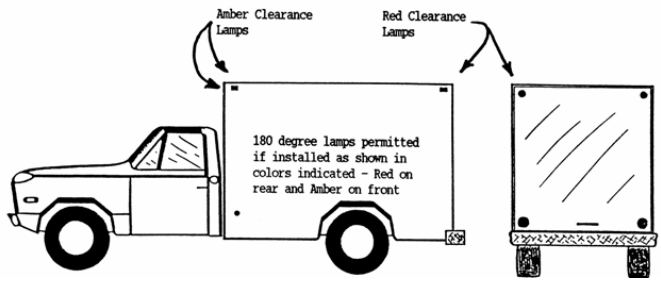
8. Any combination of vehicles whose actual length exceeds 35 feet ~~if the vehicles are not wide enough to require clearance lights, if the vehicle~~ is not equipped with reflex reflectors of a type approved by the superintendent and mounted on the widest part of the towed vehicle so as to be visible from the front and sides of the vehicle. No reflector can have a piece broken from its reflective surface, but may have one or more cracks. Taping or gluing cracks or pieces is not permitted.

9. Any passenger vehicle is equipped with clearance lamps, unless such lamps are used to mark the extreme width of the vehicle or used as taxicab identification, or used as supplemental turn signals. (See 19VAC30-70-190 B.)

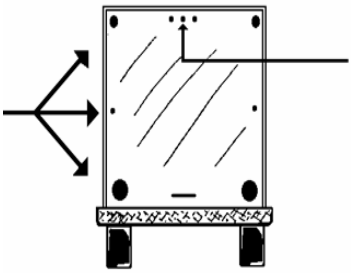
10. Vehicles so constructed as to make compliance with the requirements of subdivisions 1, 5, 7, 9, 11, and 12 of this section impractical will be equipped with clearance lamps and reflectors at the most practical location to provide maximum visibility.

11. Any vehicle is not equipped with two front side marker lights (amber) and two rear side marker lights (red).

12. Any vehicle is not equipped with two front side reflectors (amber), two rear side reflectors (red), and two reflectors mounted on the rear (red).

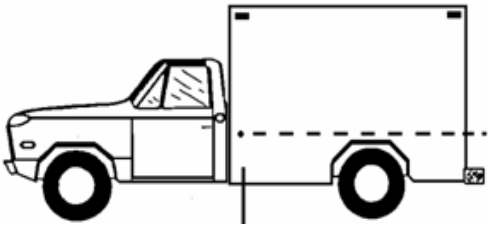


If equipped with three red identification lamps, the required clearance lamps may be mounted at any height so long as they indicate, as nearly as practicable, the extreme width of the vehicle.



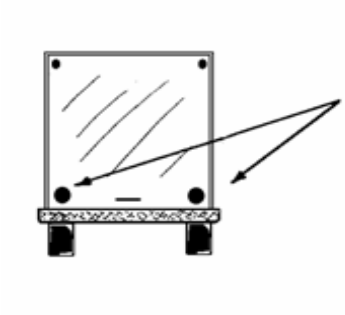
NOTE: Must be equipped with three red identification lamps

ILLUSTRATIONS FOR PROPER INSTALLATION OF REFLECTORS



Amber Reflector

At least 15 inches and not more than 60 inches from the ground.



Red Reflectors: At least 15 inches and not more than 60 inches from the ground.

19VAC30-70-210. Glass and glazing.

A. Motor vehicles may be inspected without windshields, side glasses, or any kind of glazing, except that any motor vehicle other than a motorcycle that was manufactured, assembled, or reconstructed after July 1, 1970, must be equipped with a windshield. If glass or other glazing is installed, it must be inspected. If no windshield is installed, see 19VAC30-70-50 C for location of the sticker.

B. Inspect for and reject if:

1. Any motor vehicle manufactured or assembled after January 1, 1936, or any bus, taxicab or school bus manufactured or assembled after January 1, 1935, is not equipped throughout with safety glass, or other safety glazing material. (This requirement includes slide-in campers used on pickups or trucks, caps, or covers used on pickup trucks, motor homes, and vans.)

2. Any safety glass or glazing used in a motor vehicle is not of an approved type and properly identified (refer to approved equipment section). (Replacement safety glass installed in any part of a vehicle other than the windshield need not bear a trademark or name, provided the glass consists of two or more sheets of glass separated by a glazing material, and provided the glass is cut from a piece of approved safety glass, and provided the edge of the glass can be observed.)

NOTE: A number of 1998 and 1999 model year Ford Contour/Mystique, Econoline and Ranger vehicles were produced without the AS-1 windshield marking as required by FMVSS #205. Ford has certified that these vehicles' windshields meet all performance standards and will not be rejected.

3. Any glass at any location where glass is used is cracked or broken so that it is likely to cut or injure a person in the vehicle.

4. Windshield has any cloudiness more than three inches above the bottom, one inch inward from the outer borders, one inch down from the top, or one inch inward from the center strip. The bottom of the windshield shall be defined as the point where the top of the dash contacts the windshield.

5. Any distortion or obstruction that interferes with a driver's vision; any alteration that has been made to a vehicle that obstructs the driver's clear view through the windshield. ~~This may include large objects hanging from the inside mirror or mounted to the windshield, cell phone mounts, GPS devices, CB radios or tachometers mounted on the dash or windshield, hood scoops, and other ornamentation on or in front of the hood that is not transparent.~~

a. Any hood scoop installed on any motor vehicle manufactured for the year 1990 or earlier model year cannot exceed 2-1/4 inches high at its highest point measured from the junction of the dashboard and the windshield.

b. Any hood scoop installed on any motor vehicle manufactured for the 1991 or subsequent model year cannot exceed 1-1/8 inches high at its highest point measured from the junction of the dashboard and the windshield.

NOTE: Vehicles up to 10,000 pounds (GVWR) submitted for inspection, with a navigational device, video event recording device, or a crash avoidance camera mounted on the interior of the windshield; when the entire device is outside the area swept by the windshield wipers or any location above the AS-1 line, shall be issued an approval sticker if no other violations are detected.

6. Windshield glass, on the driver's side, has any scratch more than 1/4 inch in width and six inches long within the area covered by the windshield wiper blade, excluding the three inches above the bottom of the windshield. A windshield wiper that remains parked within the driver's side windshield wiper area shall be rejected.

EXCEPTION: Do not reject safety grooves designed to clean wiper blades if the grooves do not extend upward from the bottom of the windshield more than six inches at the highest point.

7. There is a pit, chip, or star crack larger than 1-1/2 inches in diameter at any location in the windshield above the three-inch line at the bottom.

8. At any location in the windshield above the three-inch line at the bottom (as measured from the junction of the dash board and the windshield) there is more than one crack from the same point if at least one of the cracks is more than 1-1/2 inches in length. There is any crack that weakens the windshield so that one piece may be moved in relation to the other. (If there is more than one crack running from a star crack that extends above the three-inch line, the windshield shall be rejected.)

~~EXCEPTION:~~ NOTE: Windshield repair is a viable option to windshield replacement. However, the primary focus of windshield repairs is to stop or reduce further damage from roadway adversities, vibrations, ambient temperature changes, and weather. Repairs to minor damage may be made so long as the windshield meets all of the standards set forth in this section.

~~A windshield that has been repaired will pass inspection unless:~~

~~a. It is likely to cut or injure a person.~~

~~b. There is any distortion that interferes with a driver's vision.~~

~~c. The windshield remains weakened so that one piece may be moved in relation to the other.~~

~~d. The integrity of the windshield has obviously been compromised by the damage or the repair.~~

9. Any sticker is on the windshield other than an official one required by law or permitted by the superintendent. Authorization is hereby granted for stickers or decals, to include those required by any county, town, or city, measuring not more than 2-1/2 inches in width and four inches in length to be placed in the blind spot behind the rear view mirror. The normal location for any required county, town, or city sticker is adjacent to the right side of the official inspection sticker when viewed from inside the vehicle. The top edge of the sticker is to be approximately four inches from the bottom of the windshield. The left side edge adjacent to the official inspection sticker shall not be more than 1/4 inch from the right edge of the official inspection sticker when viewed from inside the vehicle. Valid Commercial Vehicle Safety Alliance (CVSA) inspection decals or similar commercial vehicle inspection decal issued by local law enforcement may be placed at the bottom right corner of the windshield when viewed from inside the vehicle. The top edge of such decals are to be approximately four inches from the bottom of the windshield when viewed from inside the vehicle and are to be located outside the area swept by the windshield wipers.

Any sticker or decal required by the laws of any other state or the District of Columbia and displayed upon the windshield of a vehicle submitted for inspection in this state is permitted by the superintendent, provided the vehicle is currently registered in that jurisdiction, and the sticker is displayed in a manner designated by the issuing authority and has not expired. This includes vehicles with dual registration; (i.e., Virginia and the District of Columbia).

~~NOTE: Any Virginia registered vehicle displaying a valid sticker or decal required by a county, town, or city is permitted by the superintendent to remain in its current location through December 31, 2018, unless such location conflicts with the inspection sticker placement. This provision will afford localities time to enact changes to regulations governing required stickers or decals that may be impacted by the 2018 inspection sticker placement change.~~

NOTE: Toll transponder devices may be affixed to the inside center of the windshield at the roof line just above the rear view mirror. If space does not allow, then the transponder device may be affixed to the immediate right of the mirror at the roof line.

NOTE: A licensed motor vehicle dealer may apply one transponder sticker no larger than one inch by four inches and one barcode sticker no larger than three inches by four inches to the driver's side edge of a vehicle's windshield to be removed upon the sale or lease of the vehicle provided that it does not extend below the AS-1 line. In the absence of an AS-1 line the sticker cannot extend more than three inches downward from the top of the windshield.

NOTE: Any vehicle displaying an expired sticker or decal on its windshield at the time of inspection, excluding a rejection sticker, shall not be issued an approval sticker unless the owner or operator authorizes its removal. A rejection sticker will be issued versus an involuntary removal.

10. Sunshading material words, lettering, numbers or pictures on the windshield that extend below the AS-1 line or three inches downward from the top of the windshield in the absence of an AS-1 line. Sunshading is permitted on the windshield if authorized by the Virginia Department of Motor Vehicles and indicated on the vehicle registration.

NOTE: Vehicles with permitted sunshading on the windshield must have a cut-out to accommodate the direct application of an approval or rejection sticker to the windshield in the location indicated in 19VAC30-70-50 C ~~of~~ or 19VAC30-70-60 E.

NOTE: Vehicles with logos made into the glass at the factory meet federal standards and will pass state inspection.

11. Any sunscreening material is scratched, distorted, wrinkled or obscures or distorts clear vision through the glazing.

12. Front side windows have cloudiness above three inches from the bottom of the glass or other defects that affect the driver's vision or one or more cracks that permit one part of the glass to be moved in relation to another part. Wind silencers, breezes or other ventilator adaptors are not made of clear transparent material.

EXCEPTION: Colored or tinted ventvisors that do not exceed more than two inches from the forward door post into the driver's viewing area are permitted.

13. Glass in the left front door cannot be lowered so a hand signal can be given. (This does not apply to vehicles that were not designed or manufactured for the left front glass to be lowered, provided the vehicle is equipped with approved turn signals.) If either front door has the glass removed and material inserted in place of the glass that could obstruct the driver's vision.

EXCEPTION: Sunscreening material is permissible if the vehicle is equipped with a mirror on each side.

14. Any sticker or other obstruction is on either front side window, rear side windows, or rear windows. (The price label, fuel economy label and the buyer's guide required by federal statute and regulations to be affixed to new or used vehicles by the manufacturer shall normally be affixed to one of the rear side windows.) If a vehicle only has two door windows, the labels may be affixed to one of these windows. If a vehicle does not have any door or side windows the labels may be temporarily affixed to the right side of the windshield until the vehicle is sold to the first purchaser.

NOTE: A single sticker no larger than 20 square inches in area, if such sticker is totally contained within the lower five inches of the glass in the rear window if a vehicle has only one outside mirror, a single sticker or decal no larger than 10 square inches located in an area not more than three inches above the bottom and not more than eight inches from the rearmost edge of either front side window, is permissible and should not be rejected.

A single sticker issued by the Department of Transportation to identify a physically challenged driver, no larger than two inches by two inches, located not more than one inch to the rear of the front door post, or one inch to the rear of the front ventilator glass, if equipped with a ventilator glass and no higher than one inch from the bottom of the window opening, is permitted on the front driver's side window on a vehicle specially equipped for the physically challenged.

15. Rear window is clouded or distorted so that the driver does not have a view 200 feet to the rear.

EXCEPTIONS: The following are permissible if the vehicle is equipped with a mirror on each side:

a. There is attached to one rear window of such motor vehicle one optically grooved clear plastic right angle rear view lens, not exceeding 18 inches in diameter in the case of a circular lens or not exceeding 11 inches by 14 inches in the case of a rectangular lens, which enables the operator of the motor vehicle to view below the line of sight as viewed through the rear window.

b. There is affixed to the rear side windows, rear window, or windows of such motor vehicle any sticker or stickers, regardless of size.

c. There is affixed to the rear side windows, rear window, or windows of such motor vehicle a single layer of sunshading material.

d. Rear side windows, rear window, or windows is clouded or distorted.

19VAC30-70-260. Hood latch system; batteries.

A. "Hood" means any exterior movable body panel forward of the windshield that is used to cover an engine, luggage, storage or battery compartment.

B. Inspect for and reject if:

1. Each hood is not provided with a hood latch system that will securely hold the hood in its proper fully-closed position.

2. A latch release mechanism or its parts are broken, missing or badly adjusted so that the hood cannot be opened and closed properly.

NOTE: The hood latch release inside the passenger compartment is only for security and shall not be rejected under this section. If the hood latch cable can be accessed from either the inside or outside of the vehicle and opened by pliers or similar method, then it will pass.

3. Latching system on a vehicle equipped with a tilt cab is defective, broken, missing, or not properly adjusted so that the tilt cab is held securely when it is in its latched position.

C. Battery mounting and storage. Inspect for and reject if:

1. A battery is not securely attached to a fixed part of the motor vehicle or trailer. A battery is not protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment.

2. All brackets, hardware, bolts, and bushings used for securely mounting the battery to the vehicle are not present.

3. Removable covers or enclosures are not substantial and are not securely latched or fastened.

4. The battery compartment does not have openings to provide ample battery ventilation and drainage.

5. Whenever the cable to the starting motor passes through a metal compartment, the cable shall be protected against grounding by an acid and waterproof insulating bushing.

6. Whenever a battery and a fuel tank are both placed under the driver's seat, (i) the battery and fuel tank are not partitioned from each other or (ii) each compartment is not provided with an independent cover, ventilation, and drainage.

19VAC30-70-300. Muffler, exhaust system and trailer venting.

A. Flexible tubing may be used anywhere in the exhaust system.

B. Inspection of exhaust system does not concern noise level.

C. Inspect for and reject if:

1. There is any leakage of exhaust gases at any point in the system. Do not reject "built-in" drain holes in muffler or tailpipe.

2. A muffler or catalytic converter has been repaired in any manner. The exhaust pipe may be welded to the muffler or catalytic converter. Holes or cracks in the exhaust line have been repaired with a patch or caulking.

NOTE: If a vehicle is inspected that does not have a muffler, the inspector should explain to the customer that although the vehicle will pass inspection without a muffler, it is a violation of state law for the vehicle to be operated on the highway without it.

NOTE: Nissan has designed an exhaust repair for ~~leak/noise~~ leak or noise at the front tube for the 2002-03 Nissan Pathfinders. The repair may require the application of a specially designed caulk to the front tube of the exhaust system. Since Nissan has designed the repair for their vehicles and trained Nissan technicians would perform the repair, this would be acceptable and should not be rejected. This exception would not preclude the rejection of exhaust systems repaired in a manner that is not designed or approved by the manufacturer and not performed by trained persons.

3. Tailpipe opening is mashed or pinched.

4. Any components of the exhaust system are not properly secured. Brackets or hangers are loose, broken, or missing.

5. The exhaust system fails to discharge the exhaust to the rear or sides of the passenger and trunk compartment of passenger vehicles unless such design is consistent with the original vehicle manufacturer exhaust system.

6. The exhaust system fails to discharge the exhaust to the rear or sides of the passenger compartment that is designed for and normally used for the driver and passengers of a property-carrying vehicle.

D. Trailers and semitrailer venting. Inspection of trailers and semitrailers will include a visual inspection of the venting of cooking or heating appliances to the outside of the trailer or semitrailer to determine if the heating and cooking appliances are adequately vented to the outside to prevent the asphyxiation of occupants of any trailer or semitrailer by the operation of the heating or cooking appliances.

1. Reject the trailer or semitrailer if not equipped with a vent or venting system to the outside.

2. Reject the trailer or semitrailer if there is any complete or partial obstruction of the vent or venting system.

NOTE: Exhaust pipes must direct the fumes to exit from underneath of the vehicle to the sides or rear most area.

NOTE: Exhaust pipes must extend behind the cab or rear axle of pickup trucks or utility trucks.

19VAC30-70-360. Motorcycle lights: auxiliary, headlamp, rear, signal, warning.

A. Headlamps. Inspect for and reject if:

1. Motorcycle is not equipped with at least one motorcycle headlamp.

2. Any motorcycle headlamp is not of an approved type (SAE-M). A motorcycle may have one or more headlamps. In addition to the headlamp or headlamps, a motorcycle may be equipped with not more than two auxiliary headlamps of a type approved (SAE-C) by the superintendent and identified as "auxiliary front lamps."

3. Lens and reflector do not match except in sealed units, or if the lens is cracked, broken or rotated, or if the lens and reflector are not clean or bright.

4. Any motorcycle lights-headlamp, rear lamp, signal or warning lamp has any wire, unapproved lens or plastic covers, any other materials that are not original equipment or any colored material placed on or in front of lamp or lens.

5. Lamp is not focused or any filament or bulb fails to burn.

6. Lamp is not mounted securely or if switch does not operate properly.

7. The center of the hot spot is set more than four inches up or down from the horizontal centerline or more than four inches to the left or right from the vertical centerline. ~~The~~ Inspectors shall rely on their education, training, and experience to determine if the headlamp is properly aimed. If improper alignment is observed, the headlamp shall be checked for proper aim by using an optical headlamp aimer.

8. The high beam indicator does not burn when the high beam is on or does not go off when the low beam is on.

NOTE: Motorcycles may be equipped with means of modulating the high beam of their headlights between high and low beam at a rate of 200 to 280 flashes per minute, provided they are equipped with a switch or device that prevents flashing of headlights when headlights are required to be lighted.

NOTE: Inspection is to be performed with lamp on high beam.

NOTE: The use of strobe lights being placed inside the headlamps of police motorcycles is permitted. The strobe light system developed by Harley-Davidson for use in police motorcycle headlamps has been tested and does meet the current standard; therefore, strobe light systems of this type and similar types may be used in police motorcycle headlamp systems.

B. Aiming the headlamp. All headlamps that do not comply with subdivision A 7 of this section shall be aimed straight ahead. (Zero inches up or down and zero inches to the right or left.)

C. Rear lamp. Inspect for and reject if:

1. The motorcycle is not equipped with a rear lamp of approved type (SAE-T-S-P-A).

2. The lamp is not mounted near rear of vehicle, or is not mounted securely, or if lamp does not make a good electrical connection.

3. Lenses are not red to the rear and clear or amber to the front or any 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.

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

4. Filaments in all lamps do not burn when headlamp switch is turned on to any position.

5. The rear license plate is not illuminated by an approved license plate bulb.

D. Signal device (intention to stop or turn).

1. Signal devices are not required on motorcycles; however, if installed, they must operate and be inspected.

2. Signal lamp lenses installed on the front of the motorcycle shall be amber and be located on each side of the vertical centerline of the motorcycle and as far apart as practicable and not closer than nine inches, measured from the optical centerline of the lamps, and to be located on the same level and not less than 20 inches above the ground level. The optical centerline of the lamp shall not be less than four inches from the retaining ring of the headlamp unit.

3. Signal lamps installed on the rear of the motorcycle shall be red or amber and shall be located on each side of the vertical centerline of the motorcycle as far apart as practicable but not closer than nine inches, measured from the optical centerline of the lens, and shall be located on the same level and not less than 20 inches above the ground level.

4. Inspect for and reject if:

a. Motorcycle, except an antique vehicle not originally equipped with a stop lamp, is not equipped with at least one stop lamp of an approved type that automatically exhibits a red or amber light to the rear when the brake control foot pedal or hand grip brake control device is activated. (On motorcycles manufactured prior to January 1, 1972, the activation of the front wheel brake control device is not required to activate the stop lamp.)

NOTE: Motorcycles may be equipped with a means of varying the brightness of the vehicle's brake light upon application of the vehicle's brakes.

b. The signal lamp is not of an approved type (SAE-D) or does not flash.

c. Lens in brake lamp or signal lamp has a piece broken from it. (Lens in brake lamp or signal lamp may have one or more cracks provided an off-color light does not project through the crack or cracks.)

d. Wiring or electrical connections are defective or any filaments do not burn.

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

f. Signal devices are not installed as provided in subdivisions D 1, 2, and 3 of this section.

E. Warning lights. Inspect for and reject if:

1. Warning lamps are not of an approved type or have been altered.

2. Any lighted advertising sign is present.

F. Auxiliary lights. Inspect for and reject if:

1. Motorcycle or autocycles are equipped with any color other than red or amber standard bulb running lights or light-emitting diode (LED) pods or strips.

2. Auxiliary lights are not directed toward the ground.

3. Auxiliary lights are not designed for vehicular use.

4. Auxiliary lights project a beam of light greater than 25 candlepower per bulb.

5. Auxiliary lights display a blinking, flashing, oscillating, or rotating pattern.

6. Auxiliary lights are attached to the wheels.

NOTE: Such lighting is not subject to approval by the Superintendent of the State Police.

19VAC30-70-450. Brakes: emergency parking or holding~~; batteries~~.

A. Some vehicles are equipped with an actual emergency brake, while others have only a parking or holding brake. Some types may be actuated by a foot or hand lever, while others may incorporate a switch or valve to actuate the brake. Air and vacuum brake systems may employ spring activating parking brakes.

B. Inspect for and reject if:

1. Vehicle or combination of vehicles is not equipped with a parking, holding, or emergency brake in good working order of the type installed as original standard factory equipment for the vehicle on which it is installed.

2. The brake actuating mechanism does not fully release when the control is operated to the off position.

3. Any mechanical parts are missing, broken, badly worn, or are inoperative.

4. Cables are stretched, worn, or frayed or not operating freely.

5. Parking brake will not hold the vehicle stationary with the engine running at slightly accelerated speed with shift lever in drive position for automatic transmission or shift lever in low gear with clutch engaged for standard shift transmission.

6. On vehicles equipped with automatic transmissions, the vehicle will start in any gear other than (P) park or (N) neutral. If the gearshift indicator does not identify the park (P) and neutral (N) positions, then the vehicle shall be rejected.

7. On vehicles equipped with manual transmissions, the vehicle will start in any gear if the clutch is not depressed or disengaged.

NOTE: This will not apply to older vehicles, which were not originally equipped with a neutral-safety switch, clutch disengagement system or clutch pedal position sensor by the manufacturer.

8. Any nonmanufactured ~~hole(s)~~ hole in the spring brake housing section of a parking brake.

NOTE: All commercial motor vehicles manufactured after March 7, 1990, shall be equipped with a parking brake system adequate to hold the vehicle or combination under any condition of loading except agricultural commodity trailers, converter dollies, heavy haulers and pulpwood trailers.

~~C. Battery mounting and storage.~~

~~Inspect for and reject if:~~

~~1. A battery is not securely attached to a fixed part of the motor vehicle or trailer. A battery is not protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment.~~

~~2. All brackets, hardware, bolts, and bushings used for securely mounting the battery to the vehicle are not present.~~

~~3. Removable covers or enclosures are not substantial and are not securely latched or fastened.~~

~~4. The battery compartment does not have openings to provide ample battery ventilation and drainage.~~

~~5. Whenever the cable to the starting motor passes through a metal compartment, the cable is not protected against grounding by an acid and waterproof insulating bushing.~~

~~6. Whenever a battery and a fuel tank are both placed under the driver's seat, (i) the batter and fuel tank are not partitioned from each other or (ii) each compartment is not provided with an independent cover, ventilation, and drainage.~~

19VAC30-70-490. Frame, engine mounts, coupling devices and emergency chains.

Inspect for and reject if:

1. Frame of any bus, truck, tractor truck is cracked, loose, broken or sagging. Frame of any trailer or semi-trailer has any broken cracked, loose, or sagging top or bottom frame rails or frame is cracked or broken.

2. Engine, transmission or cab mounts, to include all hardware, bolts, and bushings used to connect the mount to the vehicle, frame, engine, or transmission are broken or missing. Any engine or transmission mount shall be rejected if it allows the power train to come in contact with the firewall or other body parts. Cab mounts should be rejected if they do not properly secure the body to the frame.

3. Trailer hitch or pintle hook is not securely attached. Reject if the pintle eye or trailer drawbar has any cracks or if any welding repairs have been made to the pintle eye.

4. Chains, cables, etc., used to attach a towed vehicle are not securely attached, or are broken, worn or abraded.

5. Fifth wheel does not lock in position or have a locking mechanism that is in proper working order.

NOTE: Reject if horizontal movement exceeds 1/2 inch between upper and lower fifth wheel halves.

6. Fifth wheel assembly system has any leak of fluid or air.

7. Fifth wheel has any broken, missing, or damaged parts; or is not securely attached to the frame. This includes fore and aft stops.

8. Trailer king pin is not secure, or is broken, or worn so as to prevent secure fit in fifth wheel. The upper coupler device is not securely attached.

9. Any cracks, breaks or damaged parts in the stress or load bearing areas of a coupling device.

10. Trailer is not equipped with emergency ~~chain(s)~~ chains or steel ~~cable(s)~~ cables.

NOTE: Fifth wheel assembly does not require emergency chain or steel cable. A fifth wheel is defined as a device that interfaces with and couples to the upper coupler assembly of a semitrailer. The upper coupler assembly is a structure consisting of an upper coupler plate, king pin and supporting framework which interfaces with and couples to a fifth wheel. Ball and socket connections also referred to as hitch and coupling connections are not fifth wheel assemblies and do require an emergency chain or steel cable.

11. Sliding trailer tandem or multi-axle assemblies do not lock in place or have worn, broken or missing parts.

12. Any play is detected in the drive shaft u-joints, CV joints, or center load bearing.

19VAC30-70-500. Tires, wheels, rims.

Inspect for and reject if:

1. Any tire is marked specifically for use other than on the highway, such as "For Farm Use Only," "For Off-Highway Use Only," any tire marked "Not for Steering Axle," "For Mobile Home Use Only," or "For Trailer Use Only."

EXCEPTION: "For Trailer Use Only" tires are allowed when used on trailers only.

2. A radial tire is mismatched on the same axle with a bias ply tire or a bias belted tire.

3. Bias ply or bias belted tires are used on the rear axle when radial ply tires are used on the front axle. Except:

a. On a two-axle vehicle equipped with truck tires with 20-inch rim diameter and larger. Bias or radial tires may be used on either axle if the vehicle has dual rear wheels or is equipped with wide-base single tires.

b. Either bias or radial tires may be used on the steering axle of vehicles with three or more axles.

4. Bias tires and radial tires are mixed in a tandem-drive axle combination on a vehicle equipped with truck tires with 20-inch rim diameter and larger.

5. Any tire on the front wheel of a bus, truck or any tractor truck has a tread groove pattern of less than 4/32 inch when measured at any point on a major tread groove.

6. Any bus has regrooved, recapped, or retreaded tires on the front wheels.

7. Any motor vehicle, trailer or semitrailer, except the dual wheels installed on motor vehicles having seats for more than seven passengers: (i) operated wholly within a municipality, or (ii) operated by urban and suburban bus lines, which are defined as bus lines operating over regularly scheduled routes and the majority of whose passengers use the buses for traveling a distance of not exceeding 40 miles, measured one way, on the same day between their place of abode and their place of work, shopping areas, or schools, is equipped with a tire that has a tread depth measuring less than 2/32 of an inch when measured as follows: NOTE: The exemptions provided in clauses (i) and (ii) of this ~~paragraph~~ subdivision do not apply to buses owned or operated by any public school district, private school, or contract operator of buses.

NOTE: Measure in two adjacent tread grooves where tread is thinnest. If either of the grooves measure 2/32 of an inch or more, no further measurements are necessary and tread depth is satisfactory. Do not measure on tread wear indicators.

If both adjacent grooves measure less than 2/32 of an inch, the tire tread depth must be measured again at two additional equally spaced intervals around the circumference of the tire in a like manner as the first measurement. If the tread depth is less than 2/32 of an inch in two adjacent tread grooves at each of the equally spaced intervals, the tire must be rejected.

NOTE: Refer to Figures 1, 2, 3, and 4 in this section for illustrations of how to measure tire tread.

MEASURE WHERE THE TREAD IS THINNEST IN TWO ADJACENT TREAD GROOVES

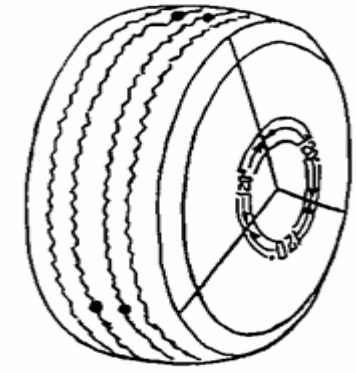


FIGURE 1

IF THE DEPTH IS LESS THAN 2/32-INCH IN BOTH GROOVES MEASURE AT TWO ADDITIONAL EQUALLY SPACED INTERVALS

8. A tire equipped with tread wear indicators if found to have such indicators in contact with the pavement in any two adjacent grooves at three equally spaced intervals around the circumference of the tire. Refer to Figure 2.

REJECT IF THE TREAD WEAR INDICATORS ARE IN CONTACT WITH THE PAVEMENT IN ANY TWO ADJACENT GROOVES AT THREE EQUALLY SPACED LOCATIONS

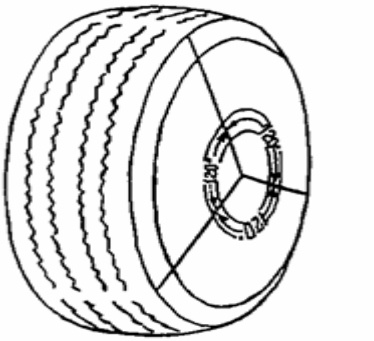


FIGURE 2

9. Any tire has a cut to the extent a ply or belt material is exposed or puncture, not to include a plug or patch that may be used as a manner of repair.

NOTE: ~~Plugs/patches~~ Plugs or patches shall be in the tread area only. ~~Plugs/patches~~ Plugs or patches are not permitted in the sidewall of the tire.

10. Any tire is worn so that the fabric or steel cord is visible.

11. Any tire has knots or bulges in its sidewalls or if there is evidence of a broken belt under the tread, or if the tread is separating from the fabric.

12. Any tire that has been recut or regrooved except commercial tires so designed and constructed to provide for acceptable and safe recutting and regrooving. Each tire that has been regrooved must be labeled with the word "Regroovable" molded on or into the tire on both sidewalls in raised or recessed letters.

13. Any tire is flat or has an audible air leak.

14. Any tire so mounted or inflated that it comes into contact with its mate or any parts of the vehicle.

15. Rims, or lock rings or wheels are bent, cracked or damaged so as to affect safe operation of the vehicle. Reject if lug nut holes are elongated (out of round).

16. Any wheel studs, bolts, nuts, lugs, or other fasteners (both spoke and disc wheels) are loose, broken, cracked, stripped, missing, or damaged or otherwise ineffective.

17. Any welded repair on aluminum ~~wheel(s)~~ wheels on a steering axle or any welded repair (other than disc to rim attachment) on steel drive ~~wheel(s)~~ wheels mounted on the steering axle.

18. Directional tires ~~and/or~~ or wheels, designed and manufactured to go in a certain direction of rotation not installed in the proper direction of rotation.

FIGURE 3

ATTACHMENT TO BMCS NOTICE DATED 8/21/69

HOW TO MEASURE TIRE TREAD

When measuring tread depth, a gauge calibrated in 32nds of an inch should be used.

The gauge should be placed at the point in one of the treads indicated by a arrow. Depth reading should not be taken in treads marked with a circle, since these are classified as "minor" treads.

Persons taking measurements will have to use discretion in measuring tread depths not pictured here. However, measurements should not be made in treads which are obviously of a "minor" nature.

This guide merely depicts a number of the most common treads.



MAJOR TREAD GROOVE

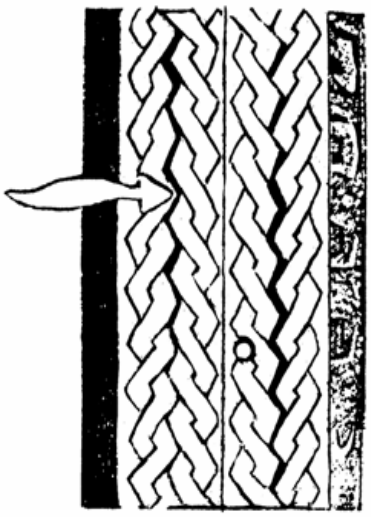
Grooves in the tread design molded through the complete thickness of the tread rubber running around and/or across the tire surface.

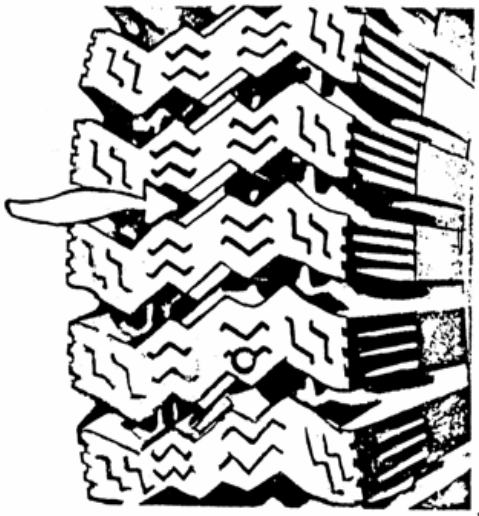
MINOR TREAD GROOVE

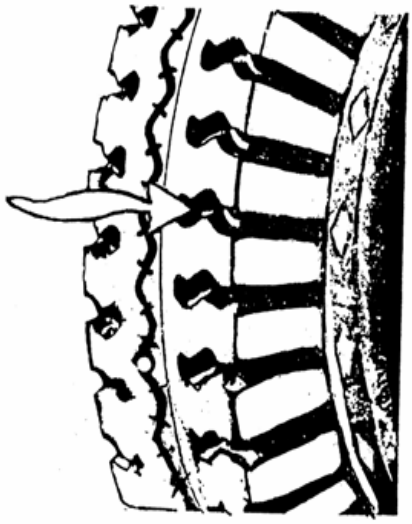
Remaining tire tread design other than major tread grooves.

TIE-BAR

Molded rubber located in major tread grooves for the purpose of connecting and supporting the tire treads.







more

FIGURE 4



19VAC30-70-510. Headlamps.

A. Inspect for and reject if:

1. Any motor vehicle is not equipped with at least two headlamps of an approved type. The headlamps must be marked with the headlamp manufacturer's name or trademark, and DOT. If the headlamp bulbs are replaceable, the headlamp lens must be marked with the headlamp light source type (bulb) for which it was designed and the bulb must match the lens code.

NOTE: If the headlamp system is stamped to accept halogen bulbs, then the replacement bulbs must be halogen as well. Retrofitting an HID or LED bulb to a halogen headlamp system does not conform to the standards set forth by the Federal Motor Vehicle Safety Standards (FMVSS) and shall be rejected.

If the entire headlamp assembly is changed from a halogen system to an LED system and does not require the manufacture's original wiring to be cut or compromised, then it shall be considered for inspection if it meets the requirements of subdivision A 2 of this section.

2. Headlights are not of the same approved type (Halogen, HID, LED, etc.) except for sealed beam headlamps~~. At least two headlamps are required.~~, or the replacement headlamp system does not contain all properly marked DOT and SAE stamps certifying that it has met and complied with the standards set forth by the Federal Motor Vehicle Safety Standard (FMVSS) 108.

NOTE: Replacement headlamps stamped with a DOT or SAE approval shall be considered approved by the Superintendent of State Police and will not be required to be listed on the Virginia Motor Vehicle Approved Equipment List.

3. In any headlamp the lens is cracked, broken, discolored, or rotated away from the proper position, or the reflector is not clean and bright.

4. Moisture or water buildup in headlamp is such that it affects the aiming pattern.

5. Headlamps omit light other than white. Light tints of color may be acceptable if the headlamp and headlamp bulbs are marked as required.

6. Bulbs are not of an approved type and marked with all of the following: light source type, the manufacturer's name or trade mark, and DOT.

a. Approved headlamp bulbs: HB1, HB2, HB3, HB3A, HB4, HB4A, HB5, H1, H3, H7, H8, H8B, H9, H9B, H9C, H11, H11B, H11C, H13, H13C, H15, HIR1, HIR2, H18, H19.

b. Approved headlamp bulbs that require ballast: 9500, D1R, D1S, D2R, D2S, D3R, D3S, D4R, D4S, D5S, D7S, D8S, D9S.

c. Approved headlamp ballasts must be marked with the light source type (bulb) and DOT. The bulb type marked on the ballast must match the marking on the headlamp lens.

7. Any filament or bulb in headlamps fails to burn properly or headlamps are not at the same location or configuration as designed by the manufacturer. (Location and type of headlamps can be found in subsection B of this section.)

8. Wiring is dangling or connections are loose, or if proper filaments do not burn at different switch positions, or if switches —, including foot or hand dimmer —, do not function properly, and are not convenient to the driver.

9. Foreign material is placed on or in front of the headlamp lens or interferes with the beam from the lamp. No glazing may be placed over or in front of the headlamps unless it is a part of an approved headlamp assembly. 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 the headlamps.

EXCEPTION: A clear impact film known as Headlight Savers produced by Grand Prix Motoring Accessories may be applied to the headlight lens to absorb impact of rocks, etc.

EXCEPTION: A law-enforcement special weapons and tactics (SWAT) or tactical armored vehicle, designed and manufactured exclusively for missions, may apply protective bars in front of the headlamps when designed and installed by the manufacturer.

NOTE: Headlamps, auxiliary driving lamps and front fog lamps shall be mounted so that the beams are aimable and the mounting shall prevent the aim of the lighting device from being disturbed while the vehicle is operating on public roads. All lamps shall be securely mounted on a rigid part of the vehicle.

10. Lamps can be moved easily by hand due to a broken fender or loose support, or if a good ground is not made by the mounting.

Headlamps, auxiliary driving lamps and front fog lamps shall be mounted so that the beams are aimable and the mounting shall prevent the aim of the lighting device from being disturbed while the vehicle is operating on public roads. All lamps shall be securely mounted on a rigid part of the vehicle.

11. A headlamp visor is over two inches long unless part of the original body design.

12. The beam indicator in the driver's compartment does not burn when the high beam is on. (Vehicles not

originally equipped with an indicator are not required to comply unless sealed beam headlamps have been installed.)

13. Headlamps are not aimed within the following tolerances using optical aimer:

a. The center of the hot spot of all Type 1 lamps, all single element high beam lamps, and all lamps that do not have Type 2 embossed in the lens, is set more than four inches up or down from the horizontal centerline or more than four inches to the left or right from the vertical centerline.

b. The left edge of the lamp pattern of any low beam lamp or any combination or multi-element lamp or Type 2 lamp is more than four inches to the left or right of the vertical centerline or the top edge of the lamp pattern is more than four inches above or below the horizontal centerline.

Aiming the Headlamps:

~~NOTE: Headlamps shall be checked for proper aim by using an optical headlamp aimer on every motor vehicle inspected.~~

Inspectors shall rely on their education, training, and experience to determine if the headlamps are properly aimed. If improper alignment is observed, headlamps shall be checked for proper aim by using an optical headlamp aimer except on vehicles equipped with on-board aimers.

Headlamp aim on vehicles with on-board aimers shall be checked by visually examining the leveling device mounted either on or adjacent to the headlamp. Reject the vehicle if the leveling device shows the headlamp adjustment to exceed indicated specifications.

NOTE: Driving lamps and fog lamps must be visually inspected to ensure proper aiming. If improper alignment is observed, the optical aimer shall be used to correct any misalignment.

Optical Aimer:

NOTE: ~~Approved optical headlamp machines may be used to properly aim any of the headlamps.~~ Optical aimers must be properly calibrated and used in the manner recommended by the manufacturer.

NOTE: When aiming headlamps, first look for the type of lamp, which will be found embossed on the lens. The type determines which aiming requirements must be followed for the optical aimer.

NOTE: All Type 2 headlamps and all low beam or multi-element headlamps must be set by aiming the lamp pattern with the lamps set on low beam.

NOTE: If attempting to align a composite or sealed beam lamp with a high and low beam within the same housing, align only the low beam. If aligning a four-lamp system with high and low beams in separate housings, it may be necessary to cover the low beam while aligning the high beam, if all four lamps are on at the same time.

NOTE: Pattern should be aimed so that the left edge does not extend to the left or right of straight ahead, and the top of the pattern should be even with the horizontal.

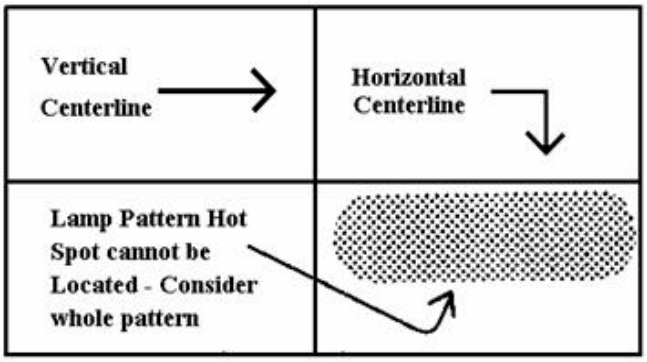
NOTE: All VOL and VOR headlamps will be aimed as follows:

To properly aim a combination multi-element or low beam VOL or VOR headlamp assembly, the headlamp pattern should be aimed on low beam only.

Letters marked on the headlamp cover should properly identify VOL and VOR headlamps.

NOTE: VOL and VOR headlamps will normally have only one adjustment, which will be for the vertical aim only. The horizontal aim should be disregarded, as the horizontal aim is preset at the factory.

Pattern "A" represents the light pattern, as it should appear on the view screen of the approved aimer when checking the low beam pattern on a single element headlamp or a combination multi-element headlamp.

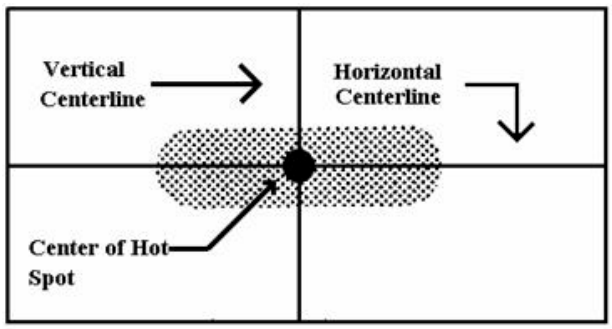


PATTERN A - TYPE 2 LAMP

NOTE: All Type 1 headlamps and all headlamps that do not have Type 2 embossed in the lens shall be set by aiming the center of the hot spot with the lamps set on high beam.

NOTE: Aim straight ahead-center of the hot spot should be centered with the vertical and horizontal centerlines.

Pattern "B" represents the light pattern as it should appear on the view screen of the approved aimer.



PATTERN B - TYPE 1 LAMP

NOTE: The four headlamp system combines four 5-3/4-inch lamps in pairs.

NOTE: One lamp embossed at the top as Type "1" and one embossed on the top as a Type "2" are arranged as a pair on each side.

NOTE: When lamp pairs are mounted horizontally, the Type "2" lamp must be on the outer side.

NOTE: The four headlamp system must be wired so that only the lower beam in the Type "2" lamps will burn when the light beams are depressed. When switched to high beams, both the Type "1" and Type "2" will burn.

NOTE: Light patterns shown on the following page will be displayed on the most recently approved light machines produced by Hopkins and Symtech Corporations.

Aiming the Headlamps:

NOTE: All headlamps that are found not to be within the four-inch tolerance shall be adjusted to zero inches up or down and zero inches to the right or left.

Headlamps on Vehicles used for Snow Removal:

NOTE: Approved auxiliary headlamps (SAE-Z) may be mounted above the conventional headlamps. (These lamps must be in compliance with 19VAC30-70-140, in its entirety, subdivision 7 of 19VAC30-70-150~~,~~ and subsection A of 19VAC30-70-170 of this manual.)

B. Inspect for and reject if:

1. Lamps are not an approved type as indicated in subdivision A 6 of this section.

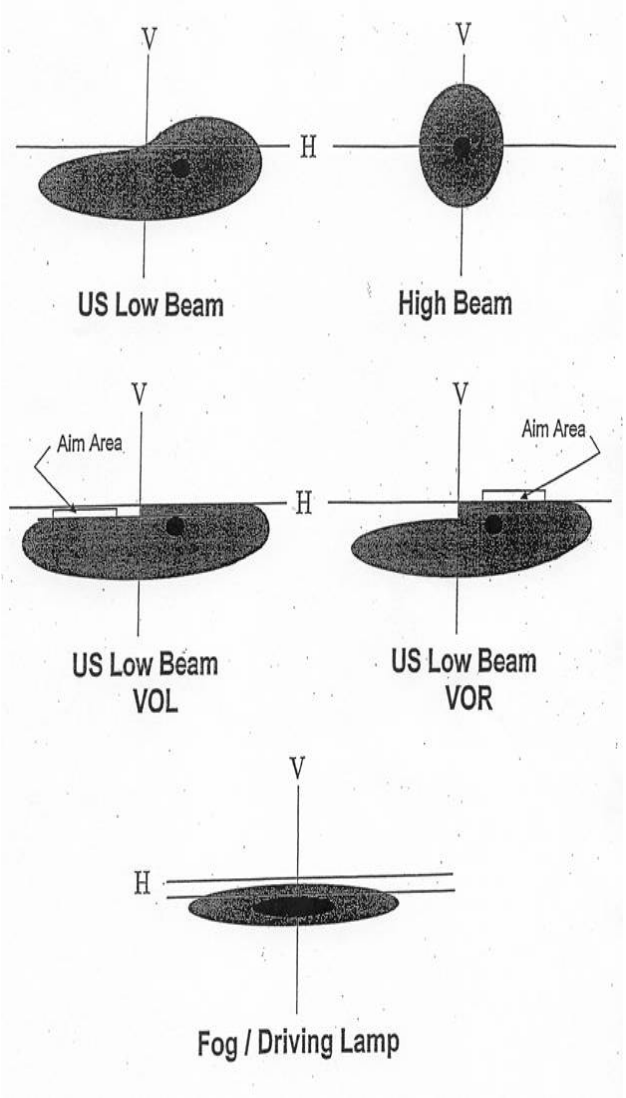
2. Lamps are not mounted in a manner that will permit proper aiming.

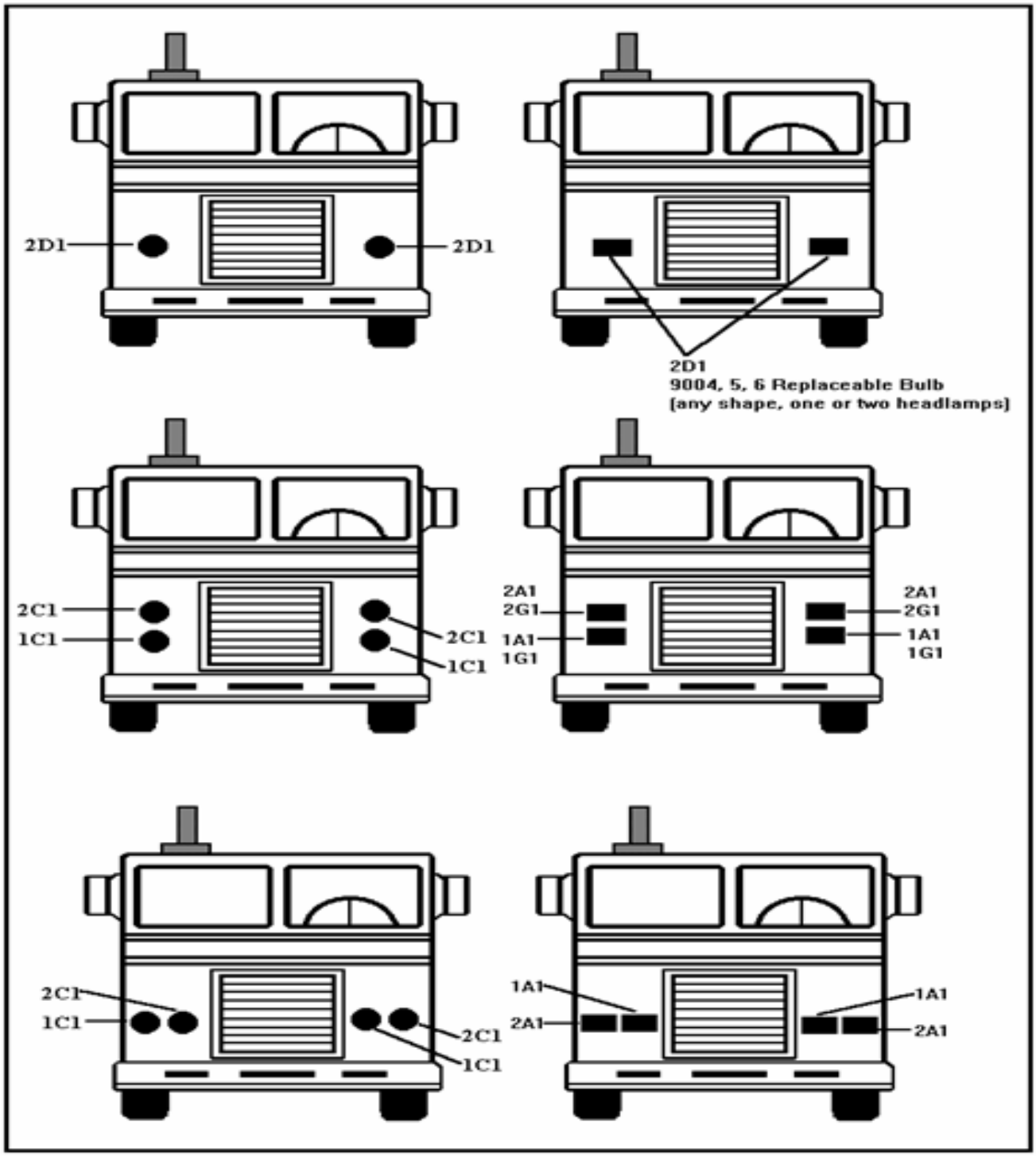
3. Lamps are mounted so as to obstruct the driver's vision.

4. The auxiliary headlamp circuit does not contain a switch that will deactivate the primary headlamp system when the auxiliary headlamps are in use.

5. Auxiliary headlamps are not aimed in accordance with the provisions of this section.

HEADLAMP PATTERNS




2D1
2D1
2D1
9004, 5, 6 Replaceable Bulb
(any shape, one or two headlamps)
2C1
1C1
2C1
1C1
2A1
2G1
1A1
1G1
2A1
2G1
1A1
1G1
2C1
1C1
2C1
1C1
1A1
2A1
1A1
2A1

NOTE: ALWAYS inspect the following sealed beam and replacement bulb headlamps on LOW BEAM only:

5-3/4 inch, marked Type 2 or 2CI

b. 7 inch, marked Type 2 or 2DI

- 6-1/2 X 4-1/4 inch rectangular, marked Type 2QA or 2A1

- 2000 X 142mm rectangular, marked Type 2B or 2B1

19VAC30-70-520. Rear lamps: tail lamp; license plate lamps; and rear lamp combinations.

A. Inspect for and reject if:

1. Vehicle is not equipped with a rear (tail lamp) or rear lamp combination of an approved type and the light or light assembly does not work as approved. ~~The approval designation letters that must appear are DOT or SAE A I S T P for single lamps and DOT or SAE A I S T P R if a backup light is incorporated.~~

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 ~~of an approved type (DOT or SAE L) which~~ that emits a white light. The license plate lamp may be a separate lamp or part of a combination rear lamp. (A road tractor or tractor-truck that does not have a rear license plate is not required to have a license plate lamp.)

4. Lens for license plate lamp is not illuminated by ~~an approved~~ a license plate lamp that emits a white light.

5. Lens on rear lamps, or lens area in combination rear lamps (tail lamps) are not red ~~or contain a DOT of another color~~. LED (light-emitting diode) lights with a clear lens are acceptable~~, if of an approved type. For those vehicles that are~~. Vehicles equipped with a multiple LED light (not filament-burning bulbs)~~, they~~ will pass inspection if more than 50% of the diode lights are burning.

6. 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(s)~~ cracks.

NOTE: Taping or gluing cracks or pieces is not allowed.

7. 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 subsection.

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

10. 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 rear lamps, tail lamps, license plate lamps or rear lamp combinations.

B. Every trailer shall carry at the rear, two red lights of a type approved by the superintendent.

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.

D. Approved type ~~(DOT or SAE-W)~~ (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 ~~(DOT or SAE-W)~~ (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 ~~(DOT or SAE-W)~~ (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 ~~(DOT or SAE W)~~ (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 ~~(DOT or SAE R)~~ (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 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 ~~(DOT or SAE K)~~ (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 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.

c. Driving lamps are not of an approved type ~~(DOT or SAE Y)~~ (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.

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 ~~(DOT or SAE-O)~~ (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.

19VAC30-70-550. Clearance lamps, side marker lamps, and reflectors (under 26,000 pounds GVWR).

Inspect for and reject if:

1. Any motor vehicle, trailer, semitrailer or other vehicle is not equipped with clearance lamps if the vehicle is over seven feet wide or if any portion extends four inches or more outside the front fender line.

When a motor vehicle with a trailer attached is presented, the combination may be considered as one unit in meeting this requirement. If presented separately, the individual unit must meet these requirements except that any tractor-truck need not be equipped with rear red dimension or marker lamps.

2. Lamps ~~(DOT or SAE P2, P3, PC or PC2)~~ or reflectors ~~(DOT or SAE A or B)~~ are not of an approved type or a lamp has been altered; any wires are exposed; ~~Reject if the lamps or reflectors have~~ unapproved lenses or plastic covers~~,~~; or any other materials that are not original equipment or any colored material placed on or in front of lamps or reflectors.

EXCEPTION: A law-enforcement special weapons and tactics (SWAT) or tactical armored vehicle, designed and manufactured exclusively for SWAT missions, may apply protective bars in front of the clearance lamps, side marker lamps, and reflectors when designed and installed by the manufacturer.

Retro-reflective surfaces. Retro-reflective surfaces other than required reflectors may be used, provided (see diagram):

a. Designs do not resemble traffic control signs, lights, or devices, except that straight edge striping resembling a barricade pattern may be used.

b. Designs do not tend to distort the length ~~and/or~~ or width of the motor vehicle.

c. Such surfaces shall be at least three inches from any required lamp or reflector unless of the same color as such lamp or reflector.

d. No red color shall be used on the front of any motor vehicle, except for display of markings or placards required by law.

3. Lenses ~~on~~ or lamps on the front are not amber and lenses on lamps on the rear are not red or if a lens has a piece broken from it. A lens may have one or more cracks provided an off-color light does not project through the crack or cracks.

4. Wiring or electrical connections are defective or all 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~~ Vehicles equipped with a multiple LED (light-emitting diode) light (not filament-burning bulbs)~~, they~~ will pass inspection if more than 50% of the diode lights are burning.

5. Two amber lamps are not mounted on the front and two red lamps on the rear, so as to indicate the extreme width of the body, and as high on the permanent body as practical, except that approved 180 degree lamps with yellow or amber lens may be mounted on the side of the vehicle at or as near the front as possible, or if the front is not the widest portion, the lamps may be installed on the side and as near that point as possible.

And with the further exception that 180 degree lamps with red lens may be mounted on the side of the vehicle at or as near the rear as possible or if the rear is not the widest portion of the vehicle, the lamps may be installed on the side as near that point as possible.

NOTE: Any vehicle equipped with three red identification lamps with the lamp centers spaced not less than six inches or more than 12 inches apart and installed as close as practicable to the top of the vehicle and as close as practicable to the vertical centerline of the vehicle may have the rear dimension or marker lamps required by subdivision 5 of this section mounted at any height but indicate as nearly as practicable the extreme width of the vehicle.

NOTE: Dump trucks with a high lift body, concrete mixer trucks and other specially constructed vehicles may be equipped with the required clearance lamps not mounted on the extreme rear, provided such red lamps are clearly visible from the rear and provided further that two red reflectors of an approved type are mounted on the extreme rear. In unusual cases the rear lamp may be mounted on the cab and another red reflex reflector placed on the extreme rear.

NOTE: In addition to the required clearance lamps showing to the front and to the rear, a vehicle may be equipped with side marker lamps on the side of the vehicle. When such an installation is used, all of the side marker lamps on the side except the one at or near the rear must have an amber lens. The side marker lamps on the side at or near the rear must have a red lens.

6. Any vehicle covered by subdivision 1 of this section, except school buses, is not equipped with amber reflectors on the sides as near the front as practical, and red reflectors on the rear. The reflectors must be at least 15 inches and not more than 60 inches from the ground. No reflector can have a piece broken from its reflective surface, but may have one or more cracks.

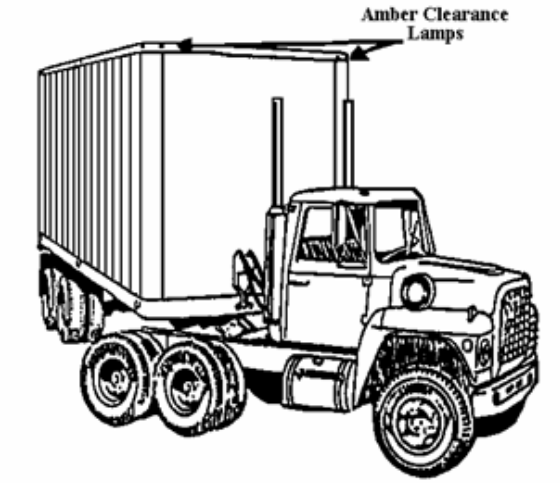
7. Any combination of vehicles whose actual length exceeds 35 feet ~~if the vehicles are not wide enough to have clearance lights,~~ if the vehicle is not equipped with reflex

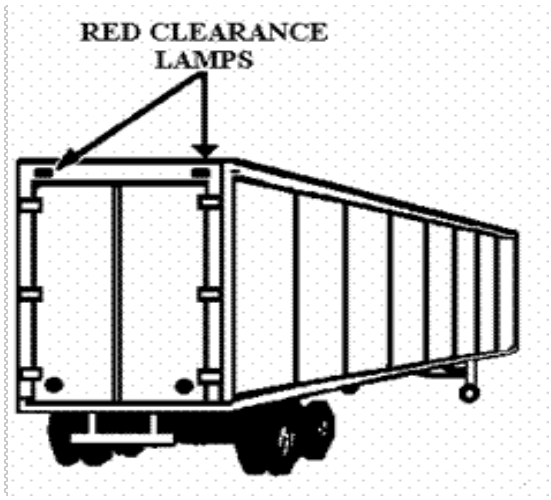
reflectors of a type approved by the superintendent and mounted on the widest part of the towed vehicle so as to be visible from the front and sides of the vehicle. No reflector can have a piece broken from its reflective surface, but may have one or more cracks.

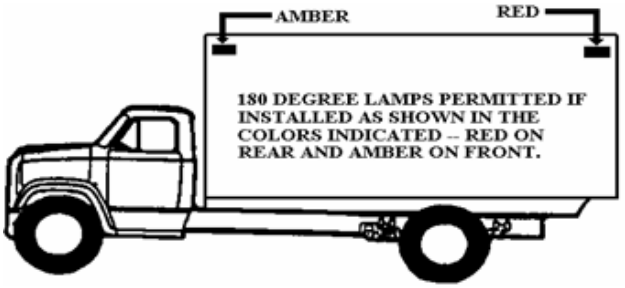
8. Any passenger vehicle is equipped with clearance lamps, unless such lamps are used to mark the extreme width of the vehicle or used as taxicab identification, or used as supplemental turn signals. (See 19VAC30-70-190 B.)

NOTE: Vehicles so constructed as to make compliance with the requirements of subdivisions 1, 5, 7, and 9 of this section impractical, will be equipped with clearance lamps and reflectors at the most practical location to provide maximum visibility.

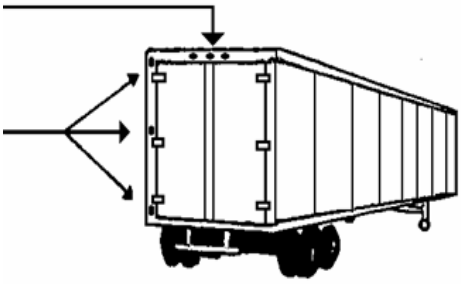
9. Any vehicle is not equipped with: two front side marker lights (amber), two rear side marker lights (red), and two rear reflectors (red).

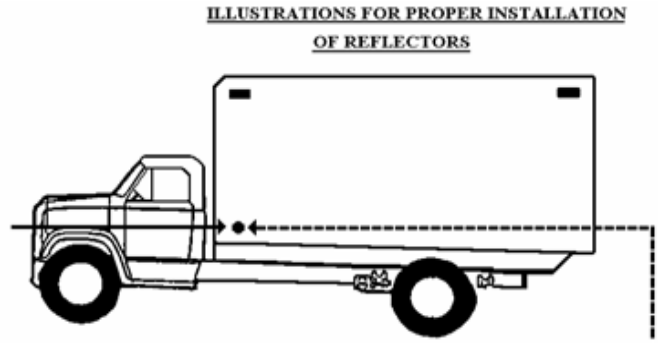




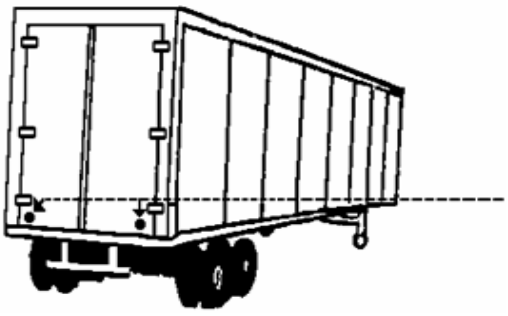


If equipped with three red identification lamps, the required clearance lamps may be mounted at any height so long as they indicate, as nearly as practicable, the extreme width of the vehicle.

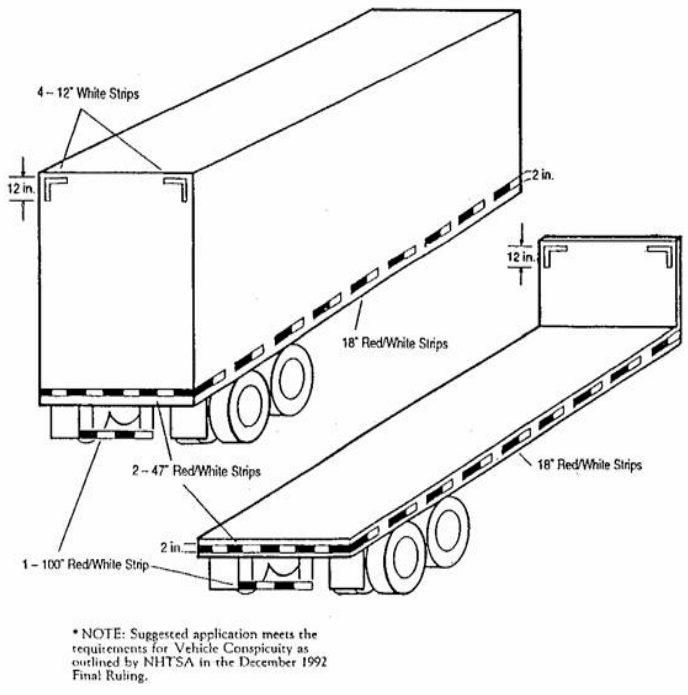




Amber Reflector -- At least 15 inches but not more than 60 inches from the ground



Red Reflectors -- At least 15 inches and not more than 60 inches from the ground



19VAC30-70-580. Glass and glazing.

A. Motor vehicles may be inspected without windshields, side glasses, or any kind of glazing except that any motor vehicle other than a motorcycle that was manufactured, assembled, or reconstructed after July 1, 1970, must be equipped with a windshield. If glass or other glazing is installed, it must be inspected. If no windshield is installed, see 19VAC30-70-50~~,~~ C~~,~~ for location of the sticker.

B. Inspect for and reject if:

1. Any motor vehicle manufactured or assembled after January 1, 1936, or any bus or school bus manufactured or assembled after January 1, 1935, is not equipped throughout with safety glass, or other safety glazing material. (This requirement includes slide-in campers used on pickups or trucks, caps, or covers used on pickup trucks, motor homes, and vans.)

2. Any safety glass or glazing used in a motor vehicle is not of an approved type and properly identified (refer to approved equipment section). (Replacement safety glass installed in any part of a vehicle other than the windshield need not bear a trademark or name, provided the glass consists of two or more sheets of glass separated by a glazing material, and provided the glass is cut from a piece of approved safety glass, and provided the edge of the glass can be observed.)

3. Any glass at any location where glass is used is cracked or broken so that it is likely to cut or injure a person in the vehicle.

4. Windshield has any cloudiness more than three inches above the bottom, one inch inward from the outer borders, one inch down from the top, or one inch inward from the center strip. The bottom of the windshield shall be defined as the point where the top of the dash contacts the windshield.

5. Any distortion or obstruction that interferes with a driver's vision; any alteration has been made to a vehicle that obstructs the driver's clear view through the windshield. This may include large objects hanging from the inside mirror or mounted to the windshield, cell phone mounts, GPS devices, CB radios or tachometers mounted on the dash or windshield, hood scoops, and other ornamentation on or in front of the hood that is not transparent.

a. Any hood scoop installed on any motor vehicle manufactured for the year 1990 or earlier model year cannot exceed 2-1/4 inches high at its highest point measured from the junction of the dashboard and the windshield.

b. Any hood scoop installed on any motor vehicle manufactured for the year 1991 or subsequent model year cannot exceed 1-1/8 inches high at its highest point measured from the junction of the dashboard and the windshield.

NOTE: Antennas, transponders, and similar devices must not be mounted more than 152 mm (six inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals.

NOTE: Vehicles 10,001 pounds (GVWR) or more, submitted for inspection, with a navigational device, video event recording device, or a crash avoidance camera mounted on the interior of the windshield, when the entire device is mounted not more than four inches below the upper edge of the area swept by the windshield wipers or any other location outside the area swept by the windshield wipers, shall be issued an approval sticker if no other violations are detected.

6. Windshield glass, on the driver's side, has any scratch more than 1/4 inch in width and six inches long within the area covered by the windshield wiper blade, excluding the three inches above the bottom of the windshield. A windshield wiper that remains parked within the driver's side windshield wiper area shall be rejected.

EXCEPTION: Do not reject safety grooves designed to clean wiper blades if the grooves do not extend upward from the bottom of the windshield more than six inches at the highest point.

7. There is a pit, chip, or star crack larger than 3/4 inch in diameter at any location in the windshield above the topmost portion of the steering wheel except the two-inch border at each side.

8. At any location above the topmost portion of the steering wheel excluding a two-inch border at the top and one-inch border at the sides there is:

a. Any crack over 1/4 inch in width.

b. Any crack 1/4 inch or less in width intersected by another crack.

c. Any damage area 3/4 inch or less in diameter if within three inches of any other damage area.

9. Any sticker is on the windshield other than an official one required by law, or permitted by the superintendent. Authorization is hereby granted for stickers or decals, to include those required by any county, town, or city, measuring not more than 2-1/2 inches in width and four inches in length to be placed in the blind spot behind the rear view mirror. The normal location for any required county, town, or city sticker or decal is adjacent to the right side of official inspection sticker when viewed from inside the vehicle. The top edge of the sticker is to be approximately four inches from the bottom of the windshield. The left side edge adjacent to the official inspection sticker shall not be more than 1/4-inch from the right edge of the official inspection sticker when viewed from inside the vehicle. Valid Commercial Vehicle Safety Alliance (CVSA) inspection decals, or similar commercial vehicle inspection decal issued by local law enforcement, may be placed at the bottom right corner of the windshield when viewed from inside the vehicle. The top edge of such decals are to be approximately four inches from the bottom of the windshield when viewed from inside the vehicle and are to be located outside the area swept by the windshield wipers.

Any sticker or decal required by the laws of any other state or the District of Columbia and displayed upon the windshield of a vehicle submitted for inspection in this state is permitted by the superintendent, provided the vehicle is currently registered in that jurisdiction and the sticker is displayed in a manner designated by the issuing authority and has not expired. This includes vehicles with dual registration, i.e., Virginia and the District of Columbia.

~~NOTE: Any Virginia registered vehicle displaying a valid sticker or decal required by a county, town, or city is permitted by the superintendent to remain in its current location through December 31, 2018, unless such location conflicts with the inspection sticker placement. This will afford localities time to enact changes to regulations governing required stickers or decals, which may be impacted by the 2018 inspection sticker placement change.~~

NOTE: Toll transponder devices may be affixed to the inside center of the windshield at the roof line just above the rear view mirror. If space does not allow, then it may be affixed to the immediate right of the mirror at the roof line.

NOTE: A licensed motor vehicle dealer may apply one transponder sticker no larger than one inch by four inches and one barcode sticker no larger than three inches by four inches to the driver's side edge of a vehicle's windshield to be removed upon the sale or lease of the vehicle provided that it does not extend below the AS-1 line. In the absence of an AS-1 line, the sticker cannot extend more than three inches downward from the top of the windshield.

NOTE: Any vehicle displaying an expired sticker or decal on its windshield at the time of inspection, excluding a rejection sticker, shall not be issued an approval sticker unless the owner or operator authorizes its removal. A rejection sticker will be issued versus an involuntary removal.

10. Sunshading material attached to the windshield extends more than three inches downward from the top of the windshield, unless authorized by the Virginia Department of Motor Vehicles and indicated on the vehicle registration.

NOTE: Sunshading material on the windshield displaying words, lettering, numbers or pictures that do not extend below the AS-1 line are permitted.

NOTE: Vehicles with logos made into the glass at the factory that meet federal standards will pass state inspection.

11. Any sunscreening material is scratched, distorted, wrinkled or obscures or distorts clear vision through the glazing.

12. Front side windows have cloudiness above three inches from the bottom of the glass, or other defects that affect the driver's vision or one or more cracks which permit one part of the glass to be moved in relation to another part. Wind silencers, breezes or other ventilator adaptors are not made of clear transparent material.

13. Glass in the left front door cannot be lowered so a hand signal can be given. (This does not apply to vehicle equipped with approved turn signals which were not designed or manufactured for left front glass to be lowered.) If either front door has the glass removed and material inserted in place of the glass which could obstruct the driver's vision.

Exception: Sunscreening material is permissible if the vehicle is equipped with a mirror on each side.

14. Any sticker or other obstruction is on either front side window, rear side windows, or rear windows. (The price

label, fuel economy label and the buyer's guide required by federal statute and regulations to be affixed to new or used vehicles by the manufacturer shall normally be affixed to one of the rear side windows.) If a vehicle only has two door windows, the labels may be affixed to one of these windows. If a vehicle does not have any door or side windows, the labels may be temporarily affixed to the right side of the windshield until the vehicle is sold to the first purchaser.

NOTE: A single sticker no larger than 20 square inches in area, if such sticker is totally contained within the lower five inches of the glass in the rear window or a single sticker or decal no larger than 10 square inches located in an area not more than three inches above the bottom and not more than eight inches from the rearmost edge of either front side window, is permissible and should not be rejected.

Do not reject a tractor truck having a gross vehicle weight rating of 26,001 pounds or more equipped with one optically grooved clear plastic wide angle lens affixed to the right front side window. Such wide angle lens shall not extend upward from the bottom of the window opening more than six inches or backward from the front of the window opening more than eight inches.

15. Rear window is clouded or distorted so that the driver does not have a view 200 feet to the rear.

EXCEPTIONS: The following are permissible if the vehicle is equipped with a mirror on each side:

a. There is attached to one rear window of such motor vehicle one optically grooved clear plastic right angle rear view lens, not exceeding 18 inches in diameter in the case of a circular lens or not exceeding 11 inches by 14 inches in the case of a rectangular lens, which enables the operator of the motor vehicle to view below the line of sight as viewed through the rear window.

b. There is affixed to the rear side windows, rear window or windows of such motor vehicle any sticker or stickers, regardless of size.

c. There is affixed to the rear side windows, rear window or windows of such motor vehicle a single layer of sunshading material.

d. Rear side windows, rear window or windows is clouded or distorted.

19VAC30-70-630. Hood latch system; batteries.

A. "Hood" means any exterior movable body panel forward of the windshield that is used to cover an engine, luggage, storage or battery compartment.

B. Inspect for and reject if:

1. Each hood is not provided with a hood latch system that will securely hold the hood in its proper fully-closed position.

2. The latch release mechanism or its parts are broken, missing or badly adjusted so that the hood cannot be opened and closed properly.

3. Latching system on a vehicle equipped with a tilt cab is defective, broken, missing, or not properly adjusted so that the tilt cab is held securely when it is in its latched position.

C. Battery mounting and storage. Inspect for and reject if:

1. A battery is not securely attached to a fixed part of the motor vehicle or trailer. A battery is not protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment.

2. All brackets, hardware, bolts, and bushings used for securely mounting the battery to the vehicle are not present.

3. Removable covers or enclosures are not substantial and are not securely latched or fastened.

4. The battery compartment does not have openings to provide ample battery ventilation and drainage.

5. Whenever the cable to the starting motor passes through a metal compartment, the cable shall be protected against grounding by an acid and waterproof insulating bushing.

6. Whenever a battery and a fuel tank are both placed under the driver's seat, (i) the battery and fuel tank are not partitioned from each other or (ii) each compartment is not provided with an independent cover, ventilation, and drainage.

19VAC30-70-670. Muffler, exhaust system, and trailer venting.

A. Flexible tubing may be used anywhere in the exhaust system.

B. Inspection of exhaust system does not concern noise level.

C. Inspect for and reject if:

1. There is any leakage of exhaust gases at any point in the system. Do not reject "built-in" drain holes in muffler or tailpipe.

2. A muffler or catalytic converter has been repaired in any manner. The exhaust pipe may be welded to the muffler or catalytic converter. Holes or cracks in the exhaust line have been repaired with a patch or caulking.

3. Tailpipe opening is mashed or pinched.

4. Brackets are loose, broken, or missing.

5. Discharge of exhaust:

a. The exhaust system fails to discharge the exhaust to the rear or sides of that part of a property-carrying vehicle which is designed for and normally used for the driver and passengers, and to the rear or sides of the passenger and trunk compartment of passenger vehicles, unless such design is consistent with the original vehicle manufacturer exhaust system.

b. The exhaust system of a bus powered by a gasoline engine shall discharge to the atmosphere at or within six inches forward of the rearmost part of the bus.

EXCEPTION: Type I small forward control buses (14,000 GVWR Class) and cutaway model buses (10,000 GVWR or less) may discharge the exhaust behind the rear wheels.

c. The exhaust system of a bus powered by other than a gasoline engine shall discharge to the atmosphere either:

(1) At or within 15 inches forward of the rearmost part of the vehicle; or

(2) To the rear of all doors or windows designed to open, except windows designed to be opened solely as emergency exits.

6. Inspection of trailers and semitrailers will include a visual inspection of the venting of cooking or heating appliances to the outside of the trailer or semitrailer to determine if the heating and cooking appliances are adequately vented to the outside to prevent the asphyxiation of occupants of any trailer or semitrailer by the operation of the heating or cooking appliances.

a. Reject the trailer or semitrailer if not equipped with a vent or venting system to the outside.

b. Reject the trailer or semitrailer if there is any complete or partial obstruction of the vent or venting system.

VA.R. Doc. No. R19-6033; Filed July 3, 2019, 10:45 a.m.

EXECUTIVE ORDER NUMBER THIRTY-SIX (2019)

Establishment of the Virginia Stem Education Commission

Importance of STEM Education and Employment

Virginia has a distinguished record as one of the best states for education, employment, and growth in the disciplines of science, technology, engineering, and mathematics (STEM). This is the result of our strong education pipeline and business friendly climate, which have fostered an economy that employs hundreds of thousands of Virginians in STEM fields. Additionally, Virginia is expected to add nearly 150,000 new STEM jobs in the next five years, with opportunities expected to grow for years to come. Employers know that they need employees with varying levels of STEM expertise; but the STEM education pipeline has not evolved as quickly as economic demand. Educational inequities too often limit access to advanced courses in STEM disciplines, credentials, and work-based learning for many of our most vulnerable and underrepresented students.

In order to close those achievement opportunity gaps, meet the growing economic demands for STEM-prepared employees, and maintain its recognition as one of the best states for STEM education and employment, the Commonwealth must be strategic about how it prepares young people and adapts to the rapidly evolving needs of employers. To accomplish this, Virginia must begin by creating a unified vision and adopting a set of dynamic shared goals to strategically inform how we prepare students for STEM jobs of the future.

Establishment of the Commission

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and §§ 2.2-134 and 2.2-135 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Virginia STEM Education Commission (Commission).

Duties of the Commission

The Commission will assist in aligning efforts around the state, measuring our programming and workforce landscape, identifying areas that can be better supported, and seeking methods in which we can more effectively prepare Virginians for employment. These goals will support the modernization of our education systems and local economies by preparing a capable and ready workforce to lead Virginia into a STEM-focused future.

The Virginia STEM Education Commission shall work to develop a State STEM Plan to include a set of definitions, goals, strategies, and measurable impacts and outcomes related to the following key areas:

1. Inspire and empower our students to develop the knowledge, skills, and mindsets necessary to thrive in a rapidly changing, technologically-advanced, global society.

2. Ensure equitable opportunities and access for every Virginian to become a vital part of a robust STEM ecosystem.

3. Continuously improve the awareness, effectiveness, support, and quality of partnerships among educational entities, employers, and nonprofits.

4. Create sustainable and supportive conditions to align Virginia's educational, economic, and community goals.

The Commission shall encourage state agencies to collaborate among government and non-governmental entities on collective goals and support efforts to share data to track outcome metrics, redesign future curriculum and course design, and inform state and local policy. In addition, it shall evaluate and recommend ways to optimize and align public-private partnerships and local, state, and federal resources to enhance current and prospective programs and services for Virginia's children and their families, particularly those at higher risk. It shall also identify best practices and areas for improvement.

The State STEM Plan will require collaboration from a wide range of state and local stakeholders, with early childhood, K-12, post-secondary, out-of-school programs, informal education, workforce development, environmental education, and business and industry partners from every region of the state.

Composition of and Support of the Commission

The First Lady of Virginia will chair the Commission. The remaining members of the Commission will be appointed by the Governor and will include experts from education, industry, and workforce perspectives from around the Commonwealth.

Staff support for the Commission will be provided by the Office of the Secretary of Education, the Virginia Department of Education, and the Science Museum of Virginia. An estimated 150 hours of staff time will be required to support the work of the Commission. The Commission will serve in an advisory role, in accordance with § 2.2-2100 of the Code of Virginia. Members will serve without compensation. The Commission will meet upon the call of the chair at least quarterly. The Commission will issue a written report no later than July 1, 2020, and any additional reports and recommendations as necessary or requested by the Governor.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect for a year from its signing, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 17th day of July 2019.

/s/ Ralph S. Northam
Governor

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, 900 East Main Street, Richmond, Virginia 23219.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Titles of Documents:

Requirement for 90 Days of Operating Expenses.

Standards for the Regulation of Children's Residential Facilities.

Public Comment Deadline: September 4, 2019.

Effective Date: September 5, 2019.

Agency Contact: Emily Bowles, Legal and Regulatory Coordinator, Department of Behavioral Health and Developmental Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 225-3281, or email emily.bowles@dbhds.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Title of Document: Civil Enforcement Manual Chapter 4-Civil Charges and Civil Penalties.

Public Comment Deadline: September 4, 2019.

Effective Date: September 5, 2019.

Agency Contact: Lee M. Crowell, Enforcement Operations Manager, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4450, or email lee.crowell@deq.virginia.gov.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Document: 2020 Grant Manual for the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund.

Public Comment Deadline: September 4, 2019.

Effective Date: September 5, 2019.

Agency Contact: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, or email lisa.mcgee@dcr.virginia.gov.

BOARD OF VETERINARY MEDICINE

Titles of Documents:

Controlled Substances (Schedule II-VI) in Veterinary Practice.

Frequently Asked Questions - Prescription Monitoring Program - Mandatory PMP Reporting Requirements for Veterinarians.

Public Comment Deadline: September 4, 2019.

Effective Date: September 5, 2019.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email elaine.yeatts@dhp.virginia.gov.

STATE WATER CONTROL BOARD

Title of Document: 2020 Water Quality Assessment Guidance Manual.

Public Comment Deadline: September 4, 2019.

Effective Date: September 5, 2019.

Agency Contact: Amanda Shaver, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4181, or email amanda.shaver@deq.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Air Pollution Control Board is conducting a periodic review and small business impact review of each listed regulation. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to each 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.

9VAC5-20, General Provisions

Contact Information: Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4319, or email gary.graham@deq.virginia.gov.

9VAC5-91, Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area

Contact Information: Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

Public comment period begins August 5, 2019, and ends August 26, 2019.

Comments may be submitted online to the Virginia Regulatory Town Hall at http://www.townhall.virginia.gov/L/Forums.cfm. Comments may also be sent to the agency contacts listed in this notice.

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 the review will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

COMMONWEALTH TRANSPORTATION BOARD

Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commonwealth Transportation Board is conducting a periodic review and small business impact review of each listed regulation. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

24VAC30-41, Rules and Regulations Governing Relocation Assistance

24VAC30-200, Vegetation Control Regulations on State Rights-of-Way

24VAC30-240, Certification Procedures for the Disadvantaged and Women-Owned Business Program

24VAC30-401, Change of Limited Access Control

24VAC30-530, Roadway and Structure Lighting

24VAC30-580, Guidelines for Considering Requests for Restricting Through Trucks on Primary and Secondary Highways

24VAC30-590, Policies and Procedures for Control of Residential and Non-Residential Cut-Through Traffic

The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to each 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 August 5, 2019, and ends August 30, 2019.

Comments may be submitted online to the Virginia Regulatory Town Hall at http://www.townhall.virginia.gov/L/Forums.cfm. Comments may also be sent to Steven Jack, Policy Regulatory Manager, Department of Transportation, 1401 East Broad Street, 11th Floor, Richmond, VA 23219, or to steven.jack@vdot.virginia.gov.

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 the review will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Availability of the 2020 Citizen Water Quality Monitoring Grant Program Request for Applications

The Department of Environmental Quality (DEQ) is pleased to make available the 2020 Citizen Water Quality Monitoring Grant Program Request for Applications (RFA). The primary purpose of these grants is to provide funding for water quality monitoring groups and individuals to monitor the quality of Virginia's waters. The grant can be used in a variety of ways, including purchasing water quality monitoring equipment, training citizen volunteers, paying lab analysis costs, and promoting stream monitoring at locations where DEQ is not currently collecting water quality samples. Applicants can choose from three grant options but may only apply for one grant. Multiple applications will be rejected.

The grant options include:

1. Mini-Grant: Maximum award up to $1,000. Open only to applicants who have not received a DEQ citizen monitoring grant in the previous three years. The grantee must use at least one-third of the award for equipment and begin water monitoring before the end of the grant period.

2. Regular Grant: Maximum award up to $5,000. Open to any applicants who wish to apply but recommended for organizations already familiar with water quality monitoring. The grantee must submit a Quality Assurance Project Plan (QAPP), use at least one-third of the award for equipment, and begin water monitoring before the end of the grant period.

3. Coordination Grant: Maximum award up to $11,000. Open only to applicants who coordinate at least three member monitoring organizations that total 35 or more volunteers. In addition, monitoring must occur at more than 50 sample sites covering at least three Virginia localities. The grantee must submit a QAPP, use at least one-third of the award for equipment, and begin water monitoring before the end of the grant period.

The grant application can be downloaded from the DEQ Citizen Monitoring Program Grant web page on July 9 at www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/CitizenMonitoring/GrantOpportunities.aspx.

In addition to offering the Citizen Water Quality Monitoring Grant Program, DEQ also provides technical assistance with developing a water quality monitoring program or a QAPP. Questions regarding the Citizen Water Quality Monitoring Grant or technical assistance should be directed to Stuart Torbeck, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4461, or email charles.torbeck@deq.virginia.gov. Information is also available on the DEQ citizen monitoring website at www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/CitizenMonitoring.aspx.

Contact Information: Stuart Torbeck, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4461, or email charles.torbeck@deq.virginia.gov.

Grassfield Solar LLC Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - City of Chesapeake

Grassfield Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in the City of Chesapeake. The proposed solar farm is to be located on the west side of West Road approximately 1,000 feet south of the intersection of West Road and Airport Drive. The project will reside on approximately 200 acres of farmland that is already cleared and has been in production for decades. The project will contain approximately 75,000 370-watt solar panels and eight 2.5-megawatts transformers or inverters. The panels will be affixed to single-axis trackers. The rated capacity is 20 megawatts alternating current and 28 megawatts direct current. The land surrounding the proposed facility is zoned agriculture or light industrial.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email mary.major@deq.virginia.gov.

Ladybug Solar LLC Withdrawal of Notice of Intent for Small Renewable Energy (Solar) Project Permit by Rule - Mecklenburg County

Ladybug Solar LLC has withdrawn the notice of intent to pursue a permit by rule for the proposed 65-megawatts alternating current photovoltaic solar facility to be located on approximately 500 acres in Bracey in Mecklenburg County. The notice of intent to submit was originally published in the Virginia Register of Regulations on November 27, 2017.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, or email mary.major@deq.virginia.gov.

STATE BOARD OF HEALTH

Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health is conducting a periodic review and small business impact review of each listed regulation. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to each 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.

12VAC5-66, Regulations Governing Durable Do Not Resuscitate Orders

Contact Information: Cam Crittenden, Division Manager of Trauma and Critical Care, Virginia Department of Health, 1041 Technology Park Drive, Glen Allen, VA 23059-4500, telephone (804) 888-9100, FAX (804) 371-3409, or email camela.crittenden@vdh.virginia.gov.

12VAC5-105, Rabies Regulations

Contact Information: Kristin Collins, Policy Analyst, Virginia Department of Health, 109 Governor Street, Office 642, Richmond, VA 23219-3623, telephone (804) 864-7298, or email kristin.collins@vdh.virginia.gov.

Public comment period begins August 5, 2019, and ends August 26, 2019.

Comments may be submitted online to the Virginia Regulatory Town Hall at http://www.townhall.virginia.gov/L/Forums.cfm. Comments may also be sent to the agency contacts listed in this notice.

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 the review will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

STATE WATER CONTROL BOARD

Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board is conducting a periodic review and small business impact review of each listed regulation. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

9VAC25-380, Wetlands Policy

9VAC25-410, Occoquan Policy

The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to each 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 August 5, 2019, and ends August 26, 2019.

Comments may be submitted online to the Virginia Regulatory Town Hall at http://www.townhall.virginia.gov/L/Forums.cfm. Comments may also be sent to Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

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 the review will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Public Comment Opportunity for Amendment of the Water Quality Management Planning Regulation

Notice of action: The State Water Control Board is considering the amendment of the regulation on water quality management planning in accordance with the public participation procedures for water quality management planning. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Purpose of notice: The board is seeking public comment through the Department of Environmental Quality on the proposed amendment. The purpose of the proposed amendment to the state's Water Quality Management Planning Regulation (9VAC25-720) is to adopt one new total maximum daily load (TMDL) wasteload allocation.

Public comment period: August 5, 2019, through September 4, 2019.

Description of proposed action: DEQ staff will propose amendments of the state's Water Quality Management Planning regulation for the James River Basin (9VAC25-720-60 A). Statutory authority for promulgating these amendments can be found in subdivision 10 of § 62.1-44.15 of the Code of Virginia.

Staff intends to recommend (i) that the board approve one TMDL report as the plan for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, (ii) that the board authorize inclusion of one TMDL report in the appropriate water quality

management plan, and (iii) that the board adopt one new TMDL wasteload allocation as part of the state's water quality management regulation in accordance with §§ 2.2-4006 A 14 and 2.2-4006 B of the Code of Virginia.

The TMDL report was developed in accordance with 40 CFR § 130.7 and is exempt from the provisions of Article 2 of the Virginia Administrative Process Act. The report was subject to the TMDL public participation process contained in DEQ's public participation procedures for water quality management planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDL.

As of July 1, 2014, TMDL wasteload allocations can receive State Water Control Board approval prior to EPA approval due to amendments outlined in § 2.2-4006 A 14 of the Code of Virginia. The one TMDL report in this public notice has been reviewed by EPA for required TMDL elements, however, remains in draft form awaiting State Water Control Board approval. The draft report can be found at http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx.

Affected waterbodies and localities for the one new TMDL wasteload allocation:

James River Basin (9VAC25-720-60 A):

"Bacteria TMDL Development for the Bullpasture River in Highland County, Virginia"

The Bullpasture River TMDL, located in Highland County, proposes E. coli reductions for the Bullpasture Watershed and provides a new E. coli wasteload allocation of 2.63E+12 counts/year.

How to comment: DEQ will accept written comments by email, fax, and postal mail. All written comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the public comment period.

How a decision is made: After comments have been considered, the board will make the final decision.

To review documents: The TMDL report is available on the DEQ website at http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx and by contacting the DEQ representative listed for any report. The electronic copies are in PDF or Word format and may be read online or downloaded.

Contact Information: Kelly Meadows, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 698-4291, FAX (804) 698-4032, or email kelly.meadows@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th 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.