



# VIRGINIA

## REGISTER OF REGULATIONS

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JULY 30, 2012

### TABLE OF CONTENTS

<b>Register Information Page</b> .....	1803
<b>Publication Schedule and Deadlines</b> .....	1804
<b>Petitions for Rulemaking</b> .....	1805
<b>Notices of Intended Regulatory Action</b> .....	1806
<b>Regulations</b> .....	1808
4VAC15-20. Definitions and Miscellaneous: in General (Proposed) .....	1808
4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (Proposed) .....	1811
4VAC15-320. Fish: Fishing Generally (Proposed) .....	1815
4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, Etc (Proposed) .....	1822
4VAC15-370. Watercraft: in General (Proposed) .....	1823
4VAC15-390. Watercraft: Safe and Reasonable Operation of Vessels (Proposed) .....	1823
4VAC15-400. Watercraft: Accident and Casualty Reporting (Proposed) .....	1824
4VAC15-410. Watercraft: Boating Safety Education (Proposed) .....	1824
4VAC15-430. Watercraft: Safety Equipment Requirements (Proposed) .....	1828
6VAC20-50. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers (Fast-Track) .....	1829
8VAC20-40. Regulations Governing Educational Services for Gifted Students (Final) .....	1836
8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (Final) .....	1837
14VAC5-300. Rules Governing Credit for Reinsurance (Reproposed) .....	1838
18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (Final) .....	1860
19VAC30-70. Motor Vehicle Safety Inspection Rules and Regulations (Final) .....	1861
22VAC30-11. Public Participation Guidelines (Final) .....	1934
22VAC30-20. Provision of Vocational Rehabilitation Services (Final) .....	1934
22VAC30-30. Provision of Independent Living Rehabilitation Services (Final) .....	1942
22VAC30-40. Protection of Participants in Human Research (Final) .....	1942
22VAC30-50. Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund (Final) .....	1944
22VAC40-411. General Relief Program (Emergency) .....	1945
<b>Governor</b> .....	1950
<b>General Notices/Errata</b> .....	1956



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# THE VIRGINIA REGISTER INFORMATION PAGE

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**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 12 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. **28:2 VA.R. 47-141 September 26, 2011**, refers to Volume 28, Issue 2, pages 47 through 141 of the *Virginia Register* issued on September 26, 2011.

*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**, Chairman; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Robert L. Tavernner**; **Christopher R. Nolen**; **J. Jasen Eige** or **Jeffrey S. Palmore**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar; **Rhonda Dyer**, Senior Operations Staff Assistant; **Terri Edwards**, Operations Staff Assistant; **Lilli Hausenfluck**, Chief Editor; **Karen Perrine**, Staff Attorney.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

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## July 2012 through July 2013

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
28:24	July 11, 2012	July 30, 2012
28:25	July 25, 2012	August 13, 2012
28:26	August 8, 2012	August 27, 2012
29:1	August 22, 2012	September 10, 2012
29:2	September 5, 2012	September 24, 2012
29:3	September 19, 2012	October 8, 2012
29:4	October 3, 2012	October 22, 2012
29:5	October 17, 2012	November 5, 2012
29:6	October 31, 2012	November 19, 2012
29:7	November 13, 2012 ( <b>Tuesday</b> )	December 3, 2012
29:8	November 28, 2012	December 17, 2012
29:9	December 11, 2012 ( <b>Tuesday</b> )	December 31, 2012
29:10	December 26, 2012	January 14, 2013
29:11	January 9, 2013	January 28, 2013
29:12	January 23, 2013	February 11, 2013
29:13	February 6, 2013	February 25, 2013
29:14	February 20, 2013	March 11, 2013
29:150	March 6, 2013	March 25, 2013
29:16	March 20, 2013	April 8, 2013
29:17	April 3, 2013	April 22, 2013
29:18	April 17, 2013	May 6, 2013
29:19	May 1, 2013	May 20, 2013
29:20	May 15, 2013	June 3, 2013
29:21	May 29, 2013	June 17, 2013
29:22	June 12, 2013	July 1, 2013
29:23	June 26, 2013	July 15, 2013
29:24	July 10, 2013	July 29, 2013

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

V.A.R. Doc. No. R12-27, June 29, 2012, 9:20 a.m.

### BOARD OF COUNSELING

#### Initial Agency Notice

**Title of Regulation: 18VAC115-20. Regulations Governing the Practice of Professional Counseling.**

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

**Name of Petitioner:** Sandra Gedney Anderson.

**Nature of Petitioner's Request:** That the board provide the names of persons who have earned their supervisory qualifications in order for residents to find a supervisor.

**Agency Plan for Disposition of Request:** The petition will be published in the Register of Regulations and sent to persons on the public participation guidelines listing for the board with a request for comment. Following the close of comment on August 30, 2012, the board will consider whether it has statutory authority to have a registry of qualified supervisors.

**Public Comment Deadline:** August 30, 2012.

**Agency Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

V.A.R. Doc. No. R12-30, July 9, 2012, 11:11 a.m.

#### Initial Agency Notice

**Title of Regulation: 18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy.**

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

**Name of Petitioner:** Julia Sayre for the Virginia Association for Marriage and Family Therapy.

**Nature of Petitioner's Request:** To clarify that board approval of registration will be provided in writing with the date of registration of supervision to be effective 30 days from the initial receipt of the applicant's request.

**Agency Plan for Disposition of Request:** The petition will be published on July 30, 2012, with comment requested until August 29, 2012. It will also be placed on the Virginia Regulatory Townhall and available for comments to be posted electronically. At its first meeting following the close of comment, which is scheduled for November 16, 2012, the board will consider the request to amend the regulations and all comment received in support or opposition.

**Public Comment Deadline:** August 29, 2012.

**Agency Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER 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 Agriculture and Consumer Services intends to consider amending **2VAC5-440, Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine**. The purpose of the proposed action is to more accurately reflect the agency's current practices and procedures related to the cotton boll weevil quarantine. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 3.2-703 of the Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: Erin Williams, Policy and Planning Coordinator, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, TTY (800) 828-1120, or email erin.williams@vdacs.virginia.gov.

VA.R. Doc. No. R12-3186; Filed June 28, 2012, 10:59 a.m.

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## TITLE 3. ALCOHOLIC BEVERAGES

### ALCOHOLIC BEVERAGE CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-20, Advertising**. The purpose of the proposed action is to remove vague or obsolete language and lessen restrictions on advertising using novelty and specialty items, coupons, and sponsorship of public events, based on the result of a periodic review. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-

4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R12-3235; Filed July 2, 2012, 12:48 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 Alcoholic Beverage Control Board intends to consider amending **3VAC5-30, Tied-House**. The purpose of the proposed action is to modernize the board's regulations maintaining a reasonable separation between retailers and other alcoholic beverage industry members as a result of suggestions received during the recent periodic review. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R12-3236; Filed July 3, 2012, 10:00 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-40, Requirements for Product Approval**. The purpose of the proposed action is to simplify the approval process for new wine and beer products to be sold in Virginia, as suggested during the recent periodic review. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R12-3237; Filed July 2, 2012, 12:56 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 Alcoholic Beverage Control Board intends to consider amending **3VAC5-50, Retail Operations**. The purpose of the proposed action is to

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# Notices of Intended Regulatory Action

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simplify and modernize the board's regulations regarding the operation of licensed retail establishments, including food sale requirements and restrictions on drink specials, as a result of the recent periodic review. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov).

VA.R. Doc. No. R12-3239; Filed July 4, 2012, 9:47 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-60, Manufacturers and Wholesalers Operations**. The purpose of the proposed action is to simplify and modernize reporting requirements and other limitations on alcoholic beverage manufacturers and wholesalers, as suggested by the recent periodic review. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov).

VA.R. Doc. No. R12-3240; Filed July 4, 2012, 9:47 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-70, Other Provisions**. The purpose of the proposed action is to amend regulations related to recordkeeping by licensees, gifts of alcoholic beverages, price discrimination, and penalties for first-time violators of board regulations, as suggested in the recent periodic review. This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

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

Statutory Authority: § 4.1-111 Code of Virginia.

Public Comment Deadline: August 29, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov).

VA.R. Doc. No. R12-3241; Filed July 4, 2012, 9:48 a.m.

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### BOARD OF GAME AND INLAND FISHERIES

**REGISTRAR'S NOTICE:** The Board of Game and Inland Fisheries is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

#### Proposed Regulation

**Title of Regulation:** 4VAC15-20. Definitions and Miscellaneous: in General (amending 4VAC15-20-50, 4VAC15-20-100, 4VAC15-20-130, 4VAC15-20-210).

**Statutory Authority:** §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

**Public Hearing Information:**

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** August 4, 2012.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

**Summary:**

The proposed amendments (i) update the department's "List of Native and Naturalized Fauna of Virginia," consistent with current scientific and common names and knowledge of the wildlife of the Commonwealth; (ii) revise the definition of "wheelchair," define "other power-driven mobility devices," and comply with the provisions of the Americans with Disabilities Act of 1990 as pertains to the use of such devices on department-owned lands; (iii) add the black rail to the Virginia List of Endangered and Threatened Species, thereby prohibiting the taking, transportation, possession, or sale of these rare native species without a permit, remove the bald eagle from that list, and adopt the updated and modified federal list of endangered and threatened wildlife species; and (iv) add the marbled crayfish to the list of Nonindigenous Aquatic Nuisance Species whose introduction into Virginia would be detrimental to the native fish and wildlife or the economy of the Commonwealth, thereby prohibiting the

importation, possession, transportation, sale, and release of this species within Virginia without a permit.

**4VAC15-20-50. Definitions; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal" and "domestic animal."**

In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's ~~2010~~ 2012 "List of Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia which have established wild, self-sustaining populations, as included in the department's ~~2010~~ 2012 "List of Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Nonnative (exotic) animal" means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals:

Domestic dog (*Canis familiaris*), including wolf hybrids.

Domestic cat (*Felis catus*), including hybrids with wild felines.

Domestic horse (*Equus caballus*), including hybrids with *Equus asinus*.

Domestic ass, burro, and donkey (*Equus asinus*).

Domestic cattle (*Bos taurus* and *Bos indicus*).

Domestic sheep (*Ovis aries*) including hybrids with wild sheep.

Domestic goat (*Capra hircus*).

Domestic swine (*Sus scrofa domestica*), including pot-bellied pig.

Llama (*Lama glama*).

Alpaca (*Lama pacos*).

Camels (*Camelus bactrianus* and *Camelus dromedarius*).

Domesticated races of hamsters (*Mesocricetus* spp.).

Domesticated races of mink (*Mustela vison*) where adults are heavier than 1.15 kilograms or their coat color can be distinguished from wild mink.

Domesticated races of red fox (*Vulpes*) where their coat color can be distinguished from wild red fox.



- Domesticated races of guinea pigs (*Cavia porcellus*).
- Domesticated races of gerbils (*Meriones unguiculatus*).
- Domesticated races of chinchillas (*Chinchilla laniger*).
- Domesticated races of rats (*Rattus norvegicus* and *Rattus rattus*).
- Domesticated races of mice (*Mus musculus*).
- Domesticated races of European rabbit (*Oryctolagus cuniculus*).
- Domesticated races of chickens (*Gallus*).
- Domesticated races of turkeys (*Meleagris gallopavo*).
- Domesticated races of ducks and geese distinguishable morphologically from wild birds.
- Feral pigeons (*Columba domestica* and *Columba livia*) and domesticated races of pigeons.
- Domesticated races of guinea fowl (*Numida meleagris*).
- Domesticated races of peafowl (*Pavo cristatus*).

"Wild animal" means any member of the animal kingdom, except domestic animals, including without limitation any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any hybrid of them, except as otherwise specified in regulations of the board, or part, product, egg, or offspring of them, or the dead body or parts of them.

**4VAC15-20-100. Prohibited use of vehicles on department-owned lands.**

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. Any motor-driven conveyance shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by department-authorized personnel on department-owned lands. ~~A motorized wheelchair suitable for use in an indoor pedestrian area is not considered a motorized vehicle and, therefore, is not covered by any restrictions on the use of motorized vehicles on department-owned lands. For purposes of this section, the term "wheelchair" means a device designed solely for use by a mobility impaired person for locomotion that is suitable for use in an indoor pedestrian area. Nothing in this section shall be construed to prohibit the department from allowing the use of wheelchairs or other power-driven mobility devices by individuals with mobility disabilities in accordance with the federal Americans with Disabilities Act of 1990 (P.L. 101-336, 104 Stat. 327).~~

For the purposes of this section, the term "wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor, locomotion. "Other power-driven mobility device" means any

mobility device powered by batteries, fuel, or other engines, whether or not designed primarily for use by individuals with mobility disabilities, that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistive mobility devices, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

**4VAC15-20-130. Endangered and threatened species; adoption of federal list; additional species enumerated.**

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 USC §§ 1531-1543), as amended as of April 6, 2012, and declares all species listed thereon to be endangered or threatened species in the Commonwealth. Pursuant to § 29.1-103.12 of the Code of Virginia, the director of the department is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List in accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

B. In addition to the provisions of subsection A, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6 (§ 29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia:

1. Fish:

Endangered:

Dace, Tennessee	<i>Phoxinus tennesseensis</i>
Darter, sharphead	<i>Etheostoma acuticeps</i>
Darter, variegate	<i>Etheostoma variatum</i>
Sunfish, blackbanded	<i>Enneacanthus chaetodon</i>

Threatened:

Darter, Carolina	<i>Etheostoma collis</i>
Darter, golden	<i>Etheostoma denoncourtii</i>
Darter, greenfin	<i>Etheostoma chlorobranchium</i>
Darter, longhead	<i>Percina macrocephala</i>
Darter, western sand	<i>Ammocrypta clara</i>
Madtom, orange fin	<i>Noturus gilberti</i>
Paddlefish	<i>Polyodon spathula</i>
Shiner, emerald	<i>Notropis atherinoides</i>
Shiner, steelcolor	<i>Cyprinella whipplei</i>

# Regulations

Shiner, whitemouth	<i>Notropis alborus</i>
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## 2. Amphibians:

### Endangered:

Salamander, eastern tiger	<i>Ambystoma tigrinum tigrinum</i>
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### Threatened:

Salamander, Mabee's	<i>Ambystoma mabeei</i>
Treefrog, barking	<i>Hyla gratiosa</i>

## 3. Reptiles:

### Endangered:

Rattlesnake, canebrake (Coastal Plain population of timber rattlesnake)	<i>Crotalus horridus</i>
Turtle, bog	<i>Glyptemys muhlenbergii</i>
Turtle, eastern chicken	<i>Deirochelys reticularia reticularia</i>

### Threatened:

Lizard, eastern glass	<i>Ophisaurus ventralis</i>
Turtle, wood	<i>Glyptemys insculpta</i>

## 4. Birds:

### Endangered:

Plover, Wilson's	<i>Charadrius wilsonia</i>
<u>Rail, black</u>	<u><i>Laterallus jamaicensis</i></u>
Wren, Bewick's	<i>Thryomanes bewicki bewickii</i>

### Threatened:

<del>Eagle, bald</del>	<del><i>Haliaeetus leucocephalus</i></del>
Falcon, peregrine	<i>Falco peregrinus</i>
Sandpiper, upland	<i>Bartramia longicauda</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow, Bachman's	<i>Aimophila aestivalis</i>
Sparrow, Henslow's	<i>Ammodramus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>

## 5. Mammals:

### Endangered:

Bat, Rafinesque's eastern big-eared	<i>Corynorhinus rafinesquii macrotis</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, American water	<i>Sorex palustris</i>
Squirrel, Virginia northern flying	<i>Glaucomys sabrinus fuscus</i>
Vole, rock	<i>Microtus chrotorrhinus</i>

### Threatened:

Shrew, Dismal Swamp southeastern	<i>Sorex longirostris fisheri</i>
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## 6. Molluscs:

### Endangered:

Ghostsail, thankless	<i>Holsingeria unthansensis</i>
Coil, rubble	<i>Helicodiscus lirellus</i>
Coil, shaggy	<i>Helicodiscus diadema</i>
Deertoe	<i>Truncilla truncata</i>
Elephantear	<i>Elliptio crassidens</i>
Elimia, spider	<i>Elimia arachnoidea</i>
Floater, brook	<i>Alasmidonta varicosa</i>
Heelsplitter, Tennessee	<i>Lasmigona holstonia</i>
Lilliput, purple	<i>Toxolasma lividus</i>
Mussel, slippershell	<i>Alasmidonta viridis</i>
Pigtoe, Ohio cordatum	<i>Pleurobema</i>
Pigtoe, pyramid	<i>Pleurobema rubrum</i>
Snuffbox	<i>Epioblasma triquetra</i>
Springsnail, Appalachian	<i>Fontigens bottimeri</i>
Springsnail (no common name)	<i>Fonitgens morrisoni</i>
Spectaclecase	<i>Cumberlandia monodonta</i>
Supercoil, spirit	<i>Paravitrea hera</i>

Threatened:

Floater, green	Lasmigona subviridis
Papershell, fragile	Leptodea fragilis
Pearlymussel, slabside	Lexingtonia dolabelloides
Pigtoe, Atlantic	Fusconaia masoni
Pimpleback	Quadrula pustulosa pustulosa
Pistolgrip	Tritogonia verrucosa
Riversnail, spiny	Iofluvialis
Sandshell, black	Ligumia recta
Sheepnose	Plethobasus cyphus
Supercoil, brown	Paravitrea septadens

7. Arthropods:

Threatened:

Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

8. Crustaceans:

Endangered:

Crayfish, Big Sandy	Cambarus veteranus
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C. It shall be unlawful to take, transport, process, sell, or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife except as authorized by law.

**4VAC15-20-210. Definitions; nonindigenous aquatic nuisance species.**

A. In addition to the species already listed in § 29.1-571 of the Code of Virginia, the board hereby designates the following species as nonindigenous aquatic nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Fish.
  - a. Black carp (*Mylopharyngodon piceus*) -
2. Invertebrates.
  - a. New Zealand mudsnail (*Potamopyrgus antipodarum*) -
  - b. Rusty crayfish (*Orconectes rusticus*) -
  - c. Chinese mitten crab (*Eriocheir sinensis*)
  - d. Marbled crayfish (*Marmorkrebs* – genus *Procambarus*)

B. It shall be unlawful to take, possess, transport, import, sell, or offer for sale within the Commonwealth any nonindigenous aquatic nuisance species except as authorized by law or regulation.

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

[2010 List of Native and Naturalized Fauna of Virginia, Virginia Department of Game and Inland Fisheries.](#)

[List of Native and Naturalized Fauna of Virginia, March 2012, Virginia Department of Game and Inland Fisheries.](#)

V.A.R. Doc. No. R12-3325; Filed July 11, 2012, 0:57 a.m.

**Proposed Regulation**

**Title of Regulation: 4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (amending 4VAC15-30-40).**

**Statutory Authority:** §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

**Public Hearing Information:**

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** August 4, 2012.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

**Summary:**

*The proposed amendments (i) add the marbled crayfish to the list of predatory and undesirable species, whose introduction into Virginia would be detrimental to the native fish and wildlife of the Commonwealth, thereby prohibiting the importation, possession, or sale of these species without a permit; and (ii) update the list to reflect current common and scientific names.*

**4VAC15-30-40. Importation requirements, possession and sale of nonnative (exotic) animals.**

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell those nonnative (exotic) animals listed below and in 4VAC15-20-210 that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:



# Regulations

Perciformes	Channidae	Channa spp. Parachanna spp.	Snakeheads
	Cichlidae	Tilapia spp.	Tilapia
		Gymnocephalus cernuum	Ruffe*
Siluriformes	Clariidae	All species	Air-breathing catfish
Synbranchiformes	Synbranchidae	Monopterus albus	Swamp eel
MAMMALS:			
Order	Family	Genus/Species	Common Name
Artiodactyla	Suidae	All Species	Pigs or Hogs*
	Cervidae	All Species	Deer*
Carnivora	Canidae	All Species	Wild Dogs*, Wolves, Coyotes or Coyote hybrids, Jackals and Foxes
	Ursidae	All Species	Bears*
	Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species (except Mustela putorius furo)	Weasels, Badgers,* Skunks and Otters Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas
	Herpestidae	All Species	Mongooses*
	Hyaenidae	All Species	Hyenas <u>and</u> <u>Aardwolves</u> *
	<del>Protelidae</del>	<del>Proteles cristatus</del>	<del>Aardwolf</del> *
	Felidae	All Species	Cats*
Chiroptera		All Species	Bats*
Lagomorpha	Leporidae	Lepus europeaeus	European hare
		Oryctolagus cuniculus	European rabbit
Rodentia		All species native to Africa	All species native to Africa
	Sciuridae	Cynomys spp.	Prairie dogs
MOLLUSKS:			
Order	Family	Genus/Species	Common Name

# Regulations

Neotaenioglossa	Hydrobiidae	Potamopyrgus antipodarum	New Zealand mudsnail
Veneroida	Dreissenidae	Dreissena bugensis	Quagga mussel
		Dreissena polymorpha	Zebra mussel
REPTILES:			
Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All species	Alligators, caimans*
	Colubridae	Boiga irregularis	Brown tree snake*
	Crocodylidae	All species	Crocodiles*
	Gavialidae	All species	Gavials*
CRUSTACEANS:			
Order	Family	Genus/Species	Common Name
Decapoda	Cambaridae	Orconectes rusticus	Rusty crayfish
		<u>Procambarus sp.</u>	<u>Marbled crayfish</u>
	Parastacidae	Cherax spp.	Australian crayfish
	Varunidea	Eriocheir sinensis	Chinese mitten crab

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A, a person, company or corporation possessing any nonnative (exotic) animal, designated with an asterisk (\*) in subsection A, prior to July 1, 1992, must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date or dates acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tattoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded with a seamless band.

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic) animals listed in subsection A that may be used for personal use, in the manufacture of products, or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and

date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A, except members of the Cervidae family, African rodents, and prairie dogs, that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Welfare Act (7 USC §§ 2131 et seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license or licenses or registration or registrations from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

F. Exception for prairie dogs. The effective date of listing of prairie dogs under subsection A of this section shall be January 1, 1998. Prairie dogs possessed in captivity in Virginia on December 31, 1997, may be maintained in captivity until the animals' deaths, but they may not be sold on or after January 1, 1998, without a permit.

G. Exception for snakehead fish. Anglers may legally harvest snakehead fish of the family Channidea, provided that

they immediately kill such fish and that they notify the department, as soon as practicable, of such actions.

H. All other nonnative (exotic) animals. All other nonnative (exotic) animals not listed in subsection A of this section may be possessed, purchased, and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened/endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

V.A.R. Doc. No. R12-3326; Filed July 11, 2012, 1:46 a.m.

### Proposed Regulation

**Title of Regulation: 4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-25).**

**Statutory Authority:** §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

**Public Hearing Information:**

#### **4VAC15-320-25. Creel and length limits.**

The creel limits (including live possession) and the length limits for the various species of fish shall be as follows, unless otherwise excepted by posted rules at department-owned or department-controlled waters (see 4VAC15-320-100 D).

Type of fish	Subtype or location	Creel and length limits	Geographic exceptions	Creel or length limits for exceptions
largemouth bass, smallmouth bass, spotted bass		5 per day in the aggregate; No statewide length limits	<b>Lakes</b>	
			Briery Creek Lake	No bass <del>4</del> 16 to 24 inches, only 1 per day longer than 24 inches
			Buggs Island (Kerr)	Only 2 of 5 bass less than 14 inches
			Claytor Lake	No bass less than 12 inches
			Flannagan Reservoir	No bass less than 12 inches
			Lake Gaston	Only 2 of 5 bass less than 14 inches
			Leesville Reservoir	Only 2 of 5 bass less than 14 inches
			Lake Moomaw	No bass less than 12 inches
			Philpott Reservoir	No bass less than 12 inches
Quantico Marine Base waters	No bass 12 to 15 inches			

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** August 4, 2012.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

**Summary:**

*The proposed amendments (i) establish creel and length limits on yellow perch in Lake Moomaw; (ii) establish creel and length limits on red drum, spotted sea trout (speckled trout), grey trout (weakfish), and southern flounder in Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries; and (iii) adjust length limits on largemouth, smallmouth, spotted, or striped bass in certain locations.*

# Regulations

			Smith Mt. Lake and its tributaries below Niagara Dam	Only 2 of 5 bass less than 14 inches
			<b>Rivers</b>	
			Clinch River – within the boundaries of Scott, Wise, Russell, or Tazewell counties	No bass 11 to 14 inches
			Dan River and tributaries down stream from the <del>Brantley Steam Plant</del> <u>Union Street Dam</u> , Danville	Only 2 of 5 bass less than 14 inches
			James River – Confluence of the Jackson and Cowpasture rivers (Botetourt County) downstream to the 14th Street Bridge in Richmond	No bass 14 to 22 inches, only 1 per day longer than 22 inches
			New River – Fields Dam (Grayson County) downstream to the VA – WV state line and its tributary Little River downstream from Little River Dam in Montgomery County (This does not include Claytor Lake which is delineated as: The upper end of the island at Allisonia downstream to the dam)	No bass 14 to 20 inches, only 1 per day longer than 20 inches
			North Fork Holston River - Rt. 91 bridge upstream of Saltville, VA downstream to the VA-TN state line	No bass less than 20 inches, only 1 per day longer than 20 inches
			North Fork Shenandoah River – Rt. 42 bridge, Rockingham Co. downstream to the confluence with S. Fork Shenandoah at Front Royal	No bass 11 to 14 inches



# Regulations

			Potomac River - Virginia tidal tributaries above Rt. 301 bridge	No bass less than 15 inches from March 1 through June 15
			Roanoke (Staunton) River - and its tributaries below Difficult Creek, Charlotte Co.	Only 2 of 5 bass less than 14 inches
			Shenandoah River – Confluence of South Fork and North Fork rivers, Front Royal, downstream, to the Warren Dam, near Front Royal  Base of Warren Dam, near Front Royal downstream to Rt. 17/50 bridge  Rt. 17/50 bridge downstream to VA - WV state line	No bass 11 to 14 inches  No bass 14 to 20 inches, only 1 per day longer than 20 inches  No bass 11 to 14 inches
			South Fork Shenandoah River - Confluence of North and South rivers, below Port Republic, downstream to Shenandoah Dam, near Town of Shenandoah  Base of Shenandoah Dam, near Town of Shenandoah, downstream to Luray Dam, near Luray  Base of Luray Dam, near Luray, downstream to the confluence with North Fork of Shenandoah, Front Royal	No bass 11 to 14 inches  No bass 14 to 20 inches, only 1 per day longer than 20 inches  No bass 11 to 14 inches

# Regulations

			Staunton River - Leesville Dam (Campbell County) downstream to the <del>U.S. Route 360 Bridge</del> (Halifax/Charlotte County Line) near Clover, VA mouth of <u>Difficult Creek, Charlotte County</u>	No <u>smallmouth</u> bass less than 20 inches, only 1 per day longer than 20 inches
striped bass	landlocked striped bass and landlocked striped bass x white bass hybrids	4 per day in the aggregate; No fish less than 20 inches	Buggs Island (Kerr) reservoir including the Staunton River to Leesville Dam and the Dan River to <del>Brantly Steam Plant</del> <u>Union Street Dam</u> (Danville)	October 1 - May 31: 2 per day in the aggregate; No striped bass or hybrid striped bass less than <del>26</del> <u>24</u> inches; June 1 - September 30: 4 per day in the aggregate; No length limit
			Smith Mountain Lake and its tributaries, including the Roanoke River upstream to Niagara Dam	2 per day in the aggregate; November 1 - May 31: No striped bass 26 to 36 inches; June 1 - October 31: No length limit
			Lake Gaston	4 per day in the aggregate October 1 - May 31: No striped bass or hybrid striped bass less than 20 inches June 1 - September 30: No length limit
	anadromous (coastal) striped bass above the fall line in all coastal rivers of the Chesapeake Bay	Creel and length limits shall be set by the Virginia Marine Resources Commission for recreational fishing in tidal waters		

## Regulations

	anadromous (coastal) in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay	2 per day; No striped bass less than 18 inches		
white bass		5 per day; No statewide length limits		
walleye		5 per day; No walleye less than 18 inches	New River upstream of Buck Dam in Carroll County	No walleye less than 20 inches
			Claytor Lake and the New River upstream of Claytor Lake Dam to Buck Dam in Carroll County	February 1 - May 31: 2 walleye per day; no walleye 19 to 28 inches; June 1 - January 31: 5 walleye per day; no walleye less than 20 inches
sauger		2 per day; No statewide length limits		
<u>yellow perch</u>		<u>No statewide daily limit;</u> <u>No statewide length limits</u>	<u>Lake Moomaw</u>	<u>10 per day</u>
chain pickerel		5 per day; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs	No daily limit
northern pike		2 per day; No pike less than 20 inches		
muskellunge		2 per day; No muskellunge less than 30 inches	New River - Fields Dam (Grayson County) downstream to the VA - WV state line, including Claytor Lake	1 per day No muskellunge less than 42 inches

# Regulations

bluegill (bream) and other sunfish excluding crappie, rock bass (redeye) and Roanoke bass		50 per day in the aggregate; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
crappie (black or white)		25 per day in the aggregate; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
			Flannagan and South Holston reservoirs	No crappie less than 10 inches
rock bass (redeye)		25 per day; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County.	No daily limit
			Nottoway and Meherrin rivers and their tributaries	5 per day in the aggregate with Roanoke bass; No rock bass less than 8 inches
Roanoke bass		No statewide daily limit; No statewide length limits	Nottoway and Meherrin rivers and their tributaries	5 per day in the aggregate with rock bass; No Roanoke bass less than 8 inches
trout	See 4VAC15-330. Fish: Trout Fishing.			
catfish	channel, white, and flathead catfish	20 per day; No length limits	All rivers below the fall line	No daily limit

## Regulations

	blue catfish	20 per day, only 1 blue catfish per day longer than 32 inches	All rivers below the fall line	No daily limit, except only 1 blue catfish per day longer than 32 inches
	yellow, brown, and black bullheads	No daily limit; No length limits		
American shad and hickory shad	James River above the fall line (14th Street Bridge), the Meherrin River above Emporia Dam, the Chickahominy River above Walkers Dam, the Appomattox River above Harvell Dam, the Pamunkey River and the Mattaponi River above the Rt. 360 bridge, and the Rappahannock River above the Rt. 1 bridge, and Virginia waters of Lake Gaston and Buggs Island (Kerr) Reservoir and tributaries to include the Dan and Staunton rivers	No possession (catch and release only)		
	(below the fall line) in tidal rivers of the Chesapeake Bay	Creel and length limits shall be those set by the Virginia Marine Resources Commission		
	Meherrin River below Emporia Dam Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest rivers, and their tributaries plus Back Bay	10 per day in the aggregate No length limits		

# Regulations

anadromous (coastal) alewife and blueback herring	Above and below the fall line in all coastal rivers of the Chesapeake Bay	Creel and length limits shall be those set by the Virginia Marine Resources Commission		
	Meherrin River, Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest rivers, and their tributaries plus Back Bay	No possession		
<u>red drum</u>	<u>Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries</u>	<u>1 per day;</u> <u>No drum less than 18 inches or greater than 27 inches</u>		
<u>spotted sea trout (speckled trout)</u>	<u>Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries</u>	<u>4 per day;</u> <u>No sea trout less than 14 inches</u>		
<u>grey trout (weakfish)</u>	<u>Back Bay and tributaries including Lake Tecumseh and North Landing River and its tributaries</u>	<u>1 per day;</u> <u>No grey trout less than 12 inches</u>		
<u>southern flounder</u>	<u>Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries</u>	<u>6 per day;</u> <u>No flounder less than 15 inches</u>		
other native or naturalized nongame fish	See 4VAC15-360-10. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish. Taking aquatic invertebrates, amphibians, reptiles and nongame fish for private use.			
endangered or threatened fish	See 4VAC15-20-130. Definitions and Miscellaneous: In General. Endangered and threatened species; adoption of federal list; additional species enumerated.			
nonnative (exotic) fish	See 4VAC15-30-40. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals. Importation requirements, possession and sale of nonnative (exotic) animals.			

VA.R. Doc. No. R12-3327; Filed July 11, 2012, 3:08 a.m.

## Proposed Regulation

**Title of Regulation:** 4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, Etc (amending 4VAC15-350-70).

**Statutory Authority:** §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

## Public Hearing Information:

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** August 4, 2012.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendments (i) add crossbows as a legal method of bow and arrow angling for nongame fish to help eliminate confusion with this fishing method and (ii) allow the harvest of bowfin and catfish with bow and arrow below the fall line in tidal rivers of the Chesapeake Bay.*

**4VAC15-350-70. Taking common carp, northern snakehead, bowfin, catfish, and gar with bow and arrow or crossbow.**

A. Season. Except as otherwise provided by local legislation or as posted, it shall be lawful to take common carp, northern snakehead, and gar from the public inland waters of the Commonwealth and bowfin and catfish from below the fall line in tidal rivers of the Chesapeake Bay, except waters stocked with trout, by means of bow and arrow or crossbow.

B. Poison arrows or explosive-head arrows prohibited. It shall be unlawful to use poison arrows or arrows with explosive heads at any time for the purpose of taking common carp, northern snakehead, bowfin, catfish, or gar in the public inland waters of the Commonwealth.

C. Fishing license required. All persons taking fish in the manner mentioned in this section shall be required to have a regular fishing license.

D. Creel limits. Common carp, northern snakehead, bowfin, catfish, and gar – unlimited, provided that any angler taking northern snakehead immediately kill such fish and notify the department, as soon as practicable, of such actions.

VA.R. Doc. No. R12-3328; Filed July 11, 2012, 5:50 a.m.

\* \* \*

**REGISTRAR'S NOTICE:** For the following watercraft regulations, the Board of Game and Inland Fisheries is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 (Boating Laws) of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

**Proposed Regulation**

Title of Regulation: **4VAC15-370. Watercraft: in General (amending 4VAC15-370-40).**

Statutory Authority: §§ 29.1-103, 29.1-501, 29.1-502, and 29.1-701 of the Code of Virginia.

Public Hearing Information:

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: August 4, 2012.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendment prohibits operation or anchoring of a vessel within 600 feet of the Leesville Dam.*

**4VAC15-370-40. Vessels prohibited within certain areas below John H. Kerr Dam and Leesville Dam.**

It shall be unlawful to operate or anchor any vessel within 600 feet below the John H. Kerr Dam or within ~~840~~ 600 feet below the Leesville Dam.

VA.R. Doc. No. R12-3329; Filed July 11, 2012, 6:02 a.m.

**Proposed Regulation**

Title of Regulation: **4VAC15-390. Watercraft: Safe and Reasonable Operation of Vessels (amending 4VAC15-390-50).**

Statutory Authority: §§ 29.1-103, 29.1-501, 29.1-502, and 29.1-701 of the Code of Virginia.

Public Hearing Information:

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: August 4, 2012.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendment replaces the term "right of way" with the term "responsibility between vessels," consistent with changes to the U.S. Coast Guard's Navigation Rules of the Road.*

**4VAC15-390-50. ~~Right of way~~ Responsibility between vessels.**

A. The operator of a motorboat underway shall keep his vessel out of the way of:

1. A vessel not under command;
2. A vessel restricted in its ability to maneuver;
3. A vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability; and
4. A sailing vessel.

B. The operator of a sailing vessel underway shall keep his vessel out of the way of:

1. A vessel not under command;
2. A vessel restricted in its ability to maneuver; and
3. A vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability.

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# Regulations

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C. The operator of a vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability when underway shall, so far as possible, keep his vessel out of the way of:

1. A vessel not under command; and
2. A vessel restricted in its ability to maneuver.

D. The pilot of a seaplane on the water shall, in general, keep his seaplane well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, he shall comply with the ~~right-of-way~~ responsibility between vessels provisions above.

E. When two sailing vessels are approaching one another, so as to involve risk of collision, the operator of one of them shall keep out of the way of the other as follows:

1. When each has the wind on a different side, the vessel that has the wind on the left side shall keep out of the way of the other;
2. When both have the wind on the same side, the vessel that is to windward (upwind) shall keep out of the way of the vessel that is to leeward (downwind); and
3. If a vessel with the wind on the left side sees a vessel to windward (upwind) and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, it shall keep out of the way of the other.

For the purpose of this section, the windward (upwind) side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

VA.R. Doc. No. R12-3330; Filed July 11, 2012, 6:17 a.m.

## Proposed Regulation

Title of Regulation: **4VAC15-400. Watercraft: Accident and Casualty Reporting (amending 4VAC15-400-20).**

Statutory Authority: §§ 29.1-103, 29.1-501, 29.1-502, and 29.1-701 of the Code of Virginia.

Public Hearing Information:

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: August 4, 2012.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendments allow for boating operators involved in an accident that requires a written report to make the required immediate notification to any member of the department, instead of to a sworn officer within the law enforcement division only.*

## 4VAC15-400-20. Immediate notification of reportable accident.

When an accident occurs that requires a written report in accordance with 4VAC15-400-30, the operator shall, without delay, by the quickest means available, notify the department in Richmond, Virginia, or the most immediately available member of the ~~department's law enforcement (game warden)~~ department, of:

1. The date, time, and exact location of the occurrence;
2. The major details of the accident including the name of each person who died or disappeared;
3. The number and name of the vessel; and
4. The names and addresses of the owner and operator.

When the operator of a vessel cannot give the notice required by the foregoing, each person, on board the vessel shall notify the department or a member of its law-enforcement force, or determine that the notice has been given.

VA.R. Doc. No. R12-3331; Filed July 11, 2012, 6:31 a.m.

## Proposed Regulation

Title of Regulation: **4VAC15-410. Watercraft: Boating Safety Education (amending 4VAC15-410-20, 4VAC15-410-40, 4VAC15-410-110, 4VAC15-410-120, 4VAC15-410-140, 4VAC15-410-150).**

Statutory Authority: §§ 29.1-103, 29.1-501, 29.1-502, 29.1-701, and 29.1-735.2 of the Code of Virginia.

Public Hearing Information:

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: August 4, 2012.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendments (i) provide for the issuance of a Lifetime Boater's Card as certification of compliance with boating safety education requirements to an individual who is or was previously registered as a commercial fisherman, and provide that for the purpose of operating a recreational vessel a registered commercial fishing license is considered valid regardless of whether the license is current; (ii) raise the passing score for the boating safety education Proctored Virginia Challenge Exam from 70% to 80% and require anyone failing an initial challenge exam, in order to receive a completion card, to complete an approved boating safety course online or in the classroom rather than by taking multiple exams; (iii) establish that a person who has not completed a National Association of State Boating Law Administrators (NASBLA) approved course that is accepted by the*



department may not supervise an operator of a vessel who also has not completed such course; (iv) establish that for specified described purposes certain licenses, certificates, or registrations to operate a vessel or a pleasure craft are considered valid regardless of whether such authorization is current; (v) increase the fee charged for a replacement Virginia Boater Education Card from \$8 to \$10, making it uniform with the fee for an original card; and (vi) amend definitions and standards as necessary to support the above.

#### 4VAC15-410-20. Definitions.

As used in this chapter, unless the context clearly requires a different meaning, the following words and terms shall have the following meanings:

"Approved course provider" is any individual, business, or organization that makes available to the boating public a boating safety education course approved by the National Association of State Boating Law Administrators and accepted by the department. An approved course provider shall have executed and have on file a valid cooperative agreement with the department. Persons who simply provide classroom instruction for an approved course provider shall not be considered an approved course provider. The department will make information regarding such approved courses and providers readily available for public access.

"Board" means the Board of Game and Inland Fisheries.

"Boating safety education course" means a course offered in the classroom, through the Internet, or through an electronic format such as CD-ROM that provides a course content and test questions that have been reviewed and approved by the National Association of State Boating Law Administrators in accordance with the National Boating Education Standards, updated January 1, 2008, and accepted by the department. A boating safety education course shall include no less than 50 test questions, which shall include at least 10 test questions specific about Virginia boating laws.

"Department" means the Department of Game and Inland Fisheries.

"Dockside safety checklist" means a document provided by the department that consists of selected facts about Virginia boating laws and safe boat operation that a rental or livery agent or motorboat leasing business is required to present to those who rent or lease a motorboat or personal watercraft. The dockside safety checklist must be reviewed and initialed by the person operating the motorboat before the boat can be rented/leased and operated.

"Equivalency exam" means a written examination that is developed by the department to test the knowledge of information included in the curriculum of a boating safety education course (may also be referred to as a challenge exam). The equivalency exam is intended to provide experienced and knowledgeable boaters with the opportunity to meet the boating safety education compliance requirement

set forth in § 29.1-735.2 of the Code of Virginia without having to take and successfully complete a boating safety education course. The equivalency exam shall be comprised of no less than 75 or more than 100 test questions, shall include no less than 25 questions specific about Virginia boating laws, shall be proctored by an individual(s) specifically designated by the department, and shall be completed without the use of any reference material. A minimum score of at least ~~70%~~ 80% shall be considered passing.

"Motorboat" means any vessel propelled by machinery whether or not the machinery is the principal source of propulsion and for this chapter shall mean with a motor of 10 horsepower or greater.

"NASBLA" means the National Association of State Boating Law Administrators.

"NASBLA-approved course" means a boating safety education course that has been reviewed and approved by NASBLA.

"Onboard direct supervision" as referenced in § 29.1-735.2 B 6 and 9 of the Code of Virginia occurs when a person maintains close visual and verbal contact with, provides adequate direction to, and can immediately assume control of a motorboat from the operator of a motorboat. A person who is water skiing, or is in the cabin of a motorboat and not at the helm/wheel is not considered to be in a position capable of providing direct supervision.

"Operate" means to navigate or otherwise control the movement of a motorboat or vessel.

"Optional Virginia Boater Education Card" means a card authorized for issuance by the department to persons who (i) can show they have met the minimum standard of boating safety education course competency, (ii) possess a valid license to operate a vessel issued to maritime personnel by the United States Coast Guard or a marine certificate issued by the Canadian government, (iii) possess a Canadian Pleasure Craft Operator's Card, or (iv) possess a valid commercial fisherman registration pursuant to § 28.2-241 of the Code of Virginia. For the purpose of this subsection a license is considered valid regardless of whether the license is current. This card may be issued as a replacement boating safety course card.

"Personal watercraft" means a motorboat less than 16 feet in length that uses an inboard motor powering a jet pump as its primary motive power and that is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside the vessel.

"Proctored" means that the written equivalency exam has been administered under the direct supervision of (i) a designated member of the United States Coast Guard Auxiliary or the United States Power Squadrons®, (ii) a designated department employee or a department volunteer

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# Regulations

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boating safety instructor, or (iii) an individual who has been approved for such purpose by the department.

"Temporary operator's certificate" means a nonrenewable document issued with the certificate of number for the motorboat or personal watercraft, if the boat is new or was sold with a transfer of ownership. A temporary operator's certificate shall be issued only by the department, by any person authorized by the director to act as an agent to issue a certificate of number pursuant to § 29.1-706 of the Code of Virginia, or by a license agent of the department authorized to issue a temporary registration certificate for a motorboat or personal watercraft. A temporary operator's certificate shall allow the owner(s) to operate a motorboat with a motor of 10 horsepower or greater or personal watercraft in Virginia for 90 days.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

"Waters of the Commonwealth" means any public waters within the territorial limits of the Commonwealth.

#### **4VAC15-410-40. Provisions for compliance and minimum standards for boating safety education course competency.**

A. A person shall be considered in compliance with the requirements for boating safety education if he meets one or more of the following provisions pursuant to § 29.1-735.2 B 1 through 9 of the Code of Virginia:

1. Completes and passes a boating safety education course;
2. Passes an equivalency exam;
3. Possesses a valid license to operate a vessel issued to maritime personnel by the United States Coast Guard or a marine certificate issued by the Canadian government or possesses a Canadian Pleasure Craft Operator's Card. For the purposes of this subsection a license is considered valid regardless of whether the license is current;
4. Possesses a temporary operator's certificate;
5. Possesses a rental or lease agreement from a motorboat or personal watercraft rental or leasing business that lists the person as the authorized operator of the motorboat;
6. Operates the motorboat under onboard direct supervision of a person who meets the requirements of this section;
7. Is a nonresident temporarily using the waters of Virginia for a period not to exceed 90 days (which means operating a boat not registered in Virginia), and meets any applicable boating safety education requirements of the state of residency, or possesses a Canadian Pleasure Craft Operator's Card;
8. Has assumed operation of the motorboat or personal watercraft due to the illness or physical impairment of the initial operator, and is returning the motorboat or personal watercraft to shore in order to provide assistance or care for the operator; or

9. Is or was previously registered as a commercial fisherman pursuant to § 28.2-241 of the Code of Virginia or is under the onboard direct supervision of the commercial fisherman while operating the commercial fisherman's boat. For the purpose of operating a recreational vessel, a registered commercial fishing license is considered valid regardless of whether the license is current.

B. The minimum standards for boating safety education course competency required by the department are:

1. Successful completion of a classroom boating safety education course in person and a passing score of at least 70% on a written test administered closed-book at the conclusion of the course by the designated course instructor(s) or other designated course assistant;
2. Successful completion of a classroom boating safety education course in person and a passing score of at least 90% on a written test administered open-book at the conclusion of the course by the designated course instructor(s) or other designated course assistant;
3. Successful completion of a boating safety education course offered through the Internet or through an electronic format such as CD-ROM and a passing score of at least 90% on a self-test administered in conjunction with the course material; or
4. A score of at least ~~70%~~ 80% on a proctored equivalency exam.

#### **4VAC15-410-110. Equivalency exam criteria.**

A. The department shall develop and make available a written equivalency exam to test the knowledge of information included in the curriculum of a boating safety education course. Such exam shall provide experienced and knowledgeable boaters with the opportunity to meet the boating safety education compliance requirement set forth in § 29.1-735.2 of the Code of Virginia without having to take and successfully complete a boating safety education course.

B. The equivalency exam shall be proctored by an individual(s) specifically designated by the department. The use of reference materials shall not be allowed while the exam is being administered and the exam shall be completed in a single session with a time limit not to exceed three hours. A person who fails an equivalency exam is required to complete a NASBLA approved boating safety education course that is accepted by the department.

C. The equivalency exam shall be comprised of no less than 75 nor more than 100 exam questions and a minimum score of at least ~~70%~~ 80% shall be considered passing. Upon successful completion, an exam certificate and/or card shall be issued to the person completing the exam.

**4VAC15-410-120. Requirements for motorboat rental and leasing businesses and the dockside safety checklist program.**

A. Any person, business, or organization that provides a motorboat with a motor of 10 horsepower or greater or personal watercraft for rent or lease shall provide the rental/lease boat operator with a dockside safety checklist provided by the department. Other persons authorized to operate such boat shall also be provided with the dockside safety checklist.

B. A dockside safety checklist shall consist of selected facts about Virginia boating laws and safe boat operation.

C. The authorized operator(s) of the rental/leased boat shall review and initial each item in the dockside safety checklist before they may operate the boat being rented or leased.

D. The dockside safety checklist for the authorized operator(s) shall be retained on board the boat being rented or leased, along with the rental or lease agreement from the motorboat rental or leasing business, when the boat is being operated.

E. Any person who presents documentation that he has met the minimum standards for boating safety education course competency in accordance with 4VAC15-410-40 B or possesses a valid license to operate a vessel issued to maritime personnel by the United States Coast Guard or a marine certificate issued by the Canadian government or possesses a Canadian Pleasure Craft Operator's Card or possesses a valid commercial fisherman registration pursuant to § 28.2-241 of the Code of Virginia shall be exempt from the dockside safety checklist requirements. For the purpose of this subsection a license is considered valid regardless of whether the license is current.

F. Pursuant to § 29.1-735.2 B 6 and 8 of the Code of Virginia, a person may be allowed to operate the rented/leased boat without completing the dockside safety checklist as long as he is operating under the onboard direct supervision of a person (i) who has completed ~~the dockside safety checklist~~ a NASBLA approved boating safety course that is accepted by the department or (ii) who is otherwise exempt from the dockside safety checklist requirement or has assumed operation of the boat due to the illness or physical impairment of the initial operator, and is returning the boat to shore in order to provide assistance or care for the operator.

**4VAC15-410-140. ~~Optional~~ Virginia Boater Education Card Cards.**

A. The department may establish an optional long-lasting and durable Virginia Boater Education Card for issuance to persons who can show that they have met the minimum standard of boating safety education course competency or who possesses a valid license to operate a vessel issued to maritime personnel by the United States Coast Guard or a marine certificate issued by the Canadian government or possesses a Canadian Pleasure Craft Operator's Card or

possesses a commercial fisherman registration pursuant to § 28.2-241 of the Code of Virginia.

B. To obtain an optional Virginia Boater Education Card, a person must provide to the department:

1. A completed application on a form provided by the department. The application shall require the applicant's name, current mailing address, and date of birth. The applicant must also sign a statement declaring that statements made on the form are true and correct and that all documents submitted with the form are true and correct copies of documents issued to the applicant. Incomplete applications will be returned to the applicant;

2. A copy of the documentation (such as the boating safety education course completion certificate/wallet card or equivalency exam completion certificate/card) that indicates that the minimum standards for boating safety education course competency have been met. Such documents must contain the name of the individual applying for the Virginia Boater Education Card. The department may require the applicant to provide the original document in the event that the copy submitted with the application is illegible or if the authenticity of the copy is not certain.

C. Upon receipt by the applicant, the optional Virginia Boater Education Card will serve in lieu of any other certificates or cards that have been issued to the bearer as a result of meeting the minimum standards for boating safety education course competency. As such, the Virginia Boater Education Card will not be transferable or revocable and will have no expiration date.

D. A person may apply, on a form provided by the department, for a replacement Virginia Boater Education Card. A replacement card may be issued if the original card is lost, stolen or destroyed, if misinformation is printed on the card, or if the bearer has legally changed their name. The application shall include an affidavit stating the circumstances that led to the need for replacement of the original card.

**4VAC15-410-150. Fees.**

A. Pursuant to § 29.1-735.2 E of the Code of Virginia, the board may establish fees for boating safety courses and certificates provided by the department. Such fees shall not exceed the cost of giving such instruction for each person participating in and receiving the instruction.

B. The department shall not charge a fee for the provision of its state course for basic boating education delivered in a conventional classroom setting.

C. Fees charged by an approved course provider for boating safety education courses are set by the course provider, but must be clearly communicated to the student prior to taking the course.

D. The fee for issuance of an optional Virginia Boater Education Card, which will serve in lieu of a previously-obtained boating safety education course certificate/card,

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# Regulations

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shall be \$10. The fee for issuance of or a replacement Virginia Boater Education Card shall be ~~\$8.00~~ \$10.

VA.R. Doc. No. R12-3332; Filed July 11, 2012, 10:24 a.m.

## Proposed Regulation

**Title of Regulation:** **4VAC15-430. Watercraft: Safety Equipment Requirements (amending 4VAC15-430-30, 4VAC15-430-40, 4VAC15-430-110).**

**Statutory Authority:** §§ 29.1-103, 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia.

### Public Hearing Information:

August 14, 2012 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** August 4, 2012.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments (i) rescind the requirement that vessels less than 16 feet in length carry a U.S. Coast Guard (USCG) Approved Type IV throwable personal flotation device; (ii) amend the exemptions for vessels required to carry or exempted from carrying a USCG Approved Type IV throwable device, consistent with the Code of Federal Regulations; and (iii) clarify that carrying visual distress signals on board recreational vessels beyond the required minimum number of serviceable and unexpired distress signals is not a violation.*

### 4VAC15-430-30. Personal flotation devices required.

A. Except as provided in 4VAC15-430-40, it shall be unlawful to use a recreational vessel unless at least one PFD of the following types is on board for each person:

1. Type I PFD;
2. Type II PFD; or
3. Type III PFD.

B. Except as provided in 4VAC15-430-40, it shall be unlawful to use a recreational vessel of 16 feet or greater unless one Type IV PFD is on board in addition to the total number of PFDs required in subsection A of this section.

C. Notwithstanding the provisions of § 29.1-742 of the Code of Virginia, it shall be unlawful to operate a personal watercraft unless each person riding on the personal watercraft or being towed by it is wearing a Type I, Type II, Type III or Type V PFD.

### 4VAC15-430-40. Personal flotation device exemptions.

A. A Type V PFD may be used in lieu of any PFD required under 4VAC15-430-30, provided:

1. The approval label on the Type V PFD indicates that the device is approved:
  - a. For the activity in which the vessel is being used; or

b. As a substitute for a PFD of the type required on the vessel in use;

2. The PFD is used in accordance with any requirements on the approval label;

3. The PFD is used in accordance with requirements in its owner's manual, if the approval label makes reference to such a manual; and

4. The PFD is being worn.

~~B. Personal watercraft, kayaks, canoes, inflatable rafts and vessels less than 16 feet in length that are registered in another state~~ The following vessels are exempted from the requirements for carriage of the additional Type IV PFD required by 4VAC15-430-30.

1. Personal watercraft.

2. Nonmotorized canoes and kayaks 16 feet in length and over.

~~C. 3.~~ 3. Racing shells, rowing sculls, racing canoes, and racing kayaks ~~are exempted from the requirements for carriage of any Type PFD required by 4VAC15-430-30.~~

~~D. 4.~~ 4. Sailboards ~~are exempted from the requirements for carriage of any Type PFD required by 4VAC15-430-30.~~

~~E. 5.~~ 5. Vessels of the United States used by foreign competitors while practicing for or racing in competition ~~are exempted from the carriage of any PFD required under 4VAC15-430-30, provided the vessel carries one of the sponsoring foreign country's acceptable flotation devices for each foreign competitor on board.~~

### 4VAC15-430-110. Visual distress signal stowage, serviceability, marking.

A. It shall be unlawful to use a vessel unless the visual distress signals required by 4VAC15-430-80 are readily accessible.

B. It shall be unlawful to use a vessel unless each signal required by 4VAC15-430-80 is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired. Signals in addition to the minimum required are not considered to be in violation of this subsection if the minimum requirement has been met.

C. It shall be unlawful to use a vessel unless each signal required by 4VAC15-430-80 is legibly marked with a U.S. Coast Guard approval number or certification statement.

VA.R. Doc. No. R12-3333; Filed July 11, 2012, 7:04 a.m.



## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### CRIMINAL JUSTICE SERVICES BOARD

#### Fast-Track Regulation

**Title of Regulation:** 6VAC20-50. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers (amending 6VAC20-50-10, 6VAC20-50-20; repealing 6VAC20-50-110).

**Statutory Authority:** § 9.1-102 of the Code of Virginia.

**Public Hearing Information:** No public hearings are scheduled.

**Public Comment Deadline:** August 29, 2012.

**Effective Date:** September 13, 2012.

**Agency Contact:** Lisa McGee, Regulatory Manager, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-2419, FAX (804) 225-3853, or email lisa.mcgee@dcjs.virginia.gov.

**Basis:** Section 9.1-102 of the Code of Virginia authorizes the Criminal Justice Services Board to set compulsory minimum training standards for jailors, court security officers, and civil process service officers.

**Purpose:** The purpose of the amendments is to reorganize the training standards into three distinctive areas: Jail, Court Security, and Civil Process Service. When the current regulation was adopted, there had been a request to combine those three areas and this was done. However, changes in the economy and a need to hire personnel to perform only court security functions or only civil process functions brought another request to separate the areas so that new hires could be trained for only those functions. This reorganization has been done and the rules need to reflect this. This regulation is essential to protect the health, safety, and welfare of citizens of the Commonwealth to ensure that entry level jail officers, court security officers, and civil process service officers receive the most up-to-date training.

**Rationale for Using Fast-Track Process:** The process for reorganizing the training standards has been going on for about a year and all parties are in accord that the rules should reflect these changes.

**Substance:** The proposed changes (i) add a definition for the Committee on Training and revise a definition of the standards for greater accuracy and consistency, (ii) provide information on how to find the standards on the DCJS website, (iii) remove references to Performance Outcome Numbers as these are subject to change annually, and (iv) remove the list of Performance Outcomes as these are subject to change annually.

**Issues:** The primary advantages to the public, the agency, and the Commonwealth are greater clarity in reading the rules; greater ease in complying with the process for revising

standards that must be reviewed annually and revised as necessary; and lower cost in this process.

There are no disadvantages to the public or the Commonwealth.

#### Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Criminal Justice Services (Board) proposes to amend its training regulations for jailors, courthouse and courtroom security officers and process serving officers. Specifically, the Board proposes to:

- Define Committee on Training and amend the definition for Compulsory Minimum Training Standards to make it clear that these standards are approved by the Committee on Training,
- Add information to these regulations that will direct interested parties to the complete training standards guidelines on the Department of Criminal Justice Services (DCJS) website and
- Eliminate references to performance outcomes in these regulations because they are now in DCJS guidelines and are subject to annual change.

**Result of Analysis.** Benefits likely outweigh costs for all proposed regulatory changes.

**Estimated Economic Impact.** Current regulations do not include a definition for Committee on Training and list the Board as the entity that sets compulsory minimum training standards. Since the committee on training actually sets these standards, the Board proposes to define Committee on Training and revise the definition of compulsory minimum training standards to specify that the committee on training sets these standards. No individual is likely to incur increased costs on account of these changes. To the extent that current regulatory language contains outdated information about who sets training standards, these proposed changes will provide the benefit of clarity.

Current regulations explicitly enumerate performance outcomes on such topics as professionalism, basic law and jail operations. This means that policy guidelines such as a requirement to maintain a professional appearance with respect to clothing, grooming and equipment are in current regulations. Because these performance outcomes are policy statements and are subject to annual change, the Board proposes to strike them from these regulations and, instead promulgate regulatory language that directs interested parties to a complete list of performance outcomes on the DCJS website. Because performance outcomes can change every year, but it would take two years on average to change them in regulation, this regulatory change is likely to provide the benefit of clarity to interested parties.

**Businesses and Entities Affected.** DCJS reports that individuals who are interested in pursuing careers as jailors,

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# Regulations

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court security officers or civil process officers are subject to the training requirements in these proposed regulations.

Localities Particularly Affected. No localities will be particularly affected by these proposed regulatory changes.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. These proposed regulatory changes are unlikely to have any effect on small businesses in the Commonwealth.

Small Businesses: Alternative Method that Minimizes Adverse Impact. These proposed regulatory changes are unlikely to have any effect on small businesses in the Commonwealth.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to Economic Impact Analysis: The Department of Criminal Justice Services concurs generally with the economic impact analysis (EIA) of the Department of Planning and Budget on the proposed Regulations Relating to Compulsory Minimum Training Standards for Jailors, Courthouse and Courtroom Security Officers, and Process Serving Officers.

Summary:

*The amendments add two definitions, revise the layout of the rules due to the reorganization and renumbering of the standards, and repeal 6VAC20-50-110 that listed performance outcomes. The Jail/Court Security/Civil Process Service Curriculum Review Committee determined that a separation of the three areas covered by the training standards is needed and that the only items needed in the regulation were training categories. All changes that are approved are posted with the standards on the Department of Criminal Justice Services' website.*

## **6VAC20-50-10. Definitions.**

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

"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency or agency head of a local correctional facility.

"Academy director" means the chief administrative officer of a certified training academy.

"Approved training" means training approved by the department to meet minimum training standards.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification standards operated by the state or local unit(s) of government for the purpose of providing instruction of compulsory minimum training standards.

"Committee on Training" means the standing committee of the board that is charged with reviewing proposed changes to the standards, holding public hearings, and approving changes to the standards as needed.

"Compulsory minimum training standards" means the categories and performance outcomes approved by the Criminal Justice Services Board performance outcomes, training objectives, criteria for testing, and lesson plan guides approved by the Committee on Training.

"Curriculum Review Committee" means a committee consisting of nine individuals representing the conduct of entry-level jailor or custodial officer, courthouse and courtroom security officer, and process service officer training. The composition of the committee shall be three representatives of sheriffs' offices, three representatives of regional jails, two representatives from academies, and one representative of the Department of Criminal Justice Services Jails Training Unit. The Committee on Training shall appoint the members of the Curriculum Review Committee.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Full-time attendance" means that officers in training shall attend all classes and shall not be placed on duty or call except in cases of emergency for the duration of the school.

"School director" means the chief administrative officer of an approved training school.

**6VAC20-50-20. Compulsory minimum training standards.**

A. Pursuant to the provisions of subdivisions 7, 8, and 9 of § 9.1-102 and § 53.1-120 of the Code of Virginia, the board establishes the following standards for Compulsory Minimum Training Standards for full and part-time Jailors or Custodial Officers, Courthouse and Courtroom Security Officers, and Process Service Officers. The complete document may be found on the Department of Criminal Justice Services' website at [www.dcjs.virginia.gov](http://www.dcjs.virginia.gov).

~~B. Performance outcomes are detailed in 6VAC20-50-110.~~

~~C. B. Academy training categories - Jailor~~

- ~~1. Professionalism, Performance Outcomes 1.1—1.3~~
- ~~2. Legal Issues, Performance Outcomes 2.1—2.18~~
- ~~3. Communications, Performance Outcomes 3.1—3.13~~
- ~~4. Operations, Performance Outcomes 4.1—4.9~~
- ~~5. Investigations, Performance Outcomes 5.1—5.5~~
- ~~6. Defensive Tactics/Use of Force, Performance Outcomes 6.1—6.17~~
- ~~7. Weapons Use, Performance Outcomes 7.1—7.7~~
- ~~8. Driver Training, Performance Outcomes 8.1—8.3~~

~~D. C. Jailor or Custodial Officer Field Training Performance Outcomes. 9.1—9.58 Category 9~~

~~E. D. Academy training categories – Courthouse and Courtroom Security Officer.~~

- ~~1. Court Security Operations and Professionalism (separate requirement) 1.1—1.2~~
- ~~2. Legal Issues (same as Jail Performance Outcomes) 2.1—2.18~~
- ~~3. Communications (same as Jail Performance Outcomes) 3.1—3.13~~
- ~~4. Court Security Operations~~
- ~~5. Court Security Investigations~~
- ~~4-6. Defensive Tactics/Use of Force 6.1—6.17~~

~~(same as Jail Performance Outcome)~~

~~5-7. Weapons Use (same as Jail Performance Outcomes) 7.1—7.7~~

~~6-8. Transportation (same as Jail Performance Outcomes) 8.1—8.3~~

~~F. E. Courthouse and Courtroom Security Officer Field Training Performance Outcomes. 9.1—9.7 Category 9~~

~~G. F. Academy training categories – Process Service Officer.~~

~~1. Process Service Officer Operations (separate requirement) 1.1—1.8~~

~~2. Legal Issues (same as Jail Performance Outcomes) 2.1—2.18~~

~~3. Communications (same as Jail Performance Outcomes) 3.1—3.13~~

~~4. Civil Process Operations~~

~~5. Civil Process Investigations~~

~~4-6. Defensive Tactics/Use of Force (same as Jail Performance Outcomes) 6.1—6.17~~

~~5-7. Weapons Use (same as Jail Performance Outcomes) 7.1—7.7~~

~~6-8. Transportation (same as Jail Performance Outcomes) 8.1—8.3~~

~~H. G. Process Service Officer Field Training Performance Outcomes. 9.1—9.6 Category 9~~

**6VAC20-50-110. Performance outcomes. (Repealed.)**

~~Text of section effective July 1, 2007~~

~~Jail, Court Security, Civil Process Service Performance Outcomes—Category 1  
Professionalism~~

~~In conjunction with responding to calls for jail, court security or civil process service, the officer must demonstrate professionalism in every aspect of performance of these services. The officer faces challenges every day that require knowledge, judgment, skill, and ability from multiple and varied sources. To meet those successfully, the officer must attain and maintain professionalism in the performance of all duties. Expected performance outcomes include the following:~~

~~1.1. 1.3. Jail and 1.6. 1.8. Court Security/Civil Process Professionalism~~

~~1.1. and 1.6 (CS/CP) Maintain a professional appearance with respect to clothing, grooming, and equipment.~~

~~1.2. and 1.7 (CS/CP) Behave in a fair, positive and courteous manner with inmates and the public to develop a trust relationship and positive community relationship.~~

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# Regulations

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~~1.3. and 1.8 (CS/CP) Apply knowledge of the law relating to gambling and identify its impact on professionalism.~~

~~Jail, Court Security, Civil Process Service Performance  
Outcomes—Category 2~~

~~Legal Issues~~

~~In conjunction with responding to calls for jail, court security, or civil process service, the officer must identify legal requirements related to the Constitution of the United States, the Code of Virginia, and/or local ordinances where applicable. Expected performance outcomes include this basic knowledge and cover the following:~~

~~2.1—2.16 Basic Law~~

~~2.1. Perform the duties of a deputy/jail officer in compliance with constitutional requirements and the Bill of Rights.~~

~~2.2. Perform the duties of a deputy/jail officer/court security or civil process service officer with awareness of personal and agency liability.~~

~~2.3. Perform duties of a deputy/jail officer according to laws governing the office of sheriff and regional jails.~~

~~2.4. Respond to request by determining whether the facts are civil or criminal.~~

~~2.5. Obtain an arrest warrant from proper authority.~~

~~2.6. Arrest persons with a warrant.~~

~~2.7. Arrest persons without a warrant.~~

~~2.8. Answer questions regarding the progress of a case according to rules of privacy and security controlling access to records.~~

~~2.9. Serve mental health commitment papers.~~

~~2.10. Apply knowledge of the law to related to family abuse and protective orders.~~

~~2.11. Apply knowledge of law to obtain information from a subject conforming to constitutional requirements.~~

~~2.12. Conduct searches and seizures under the following conditions:~~

~~—with and without a warrant~~

~~—incident to hot pursuit~~

~~—with or without consent~~

~~—incident to arrest~~

~~—confer with the local Commonwealth's Attorney under unusual search and seizure circumstances~~

~~2.13. Frisk or search a subject.~~

~~2.14. Identify, establish custody of, and record a chain of custody for evidence, seized or detained property, or recovered property.~~

~~2.15. Identify legal basis for use of force by an officer.~~

~~2.16. Identify the circumstances under which a person is fingerprinted.~~

~~Jail, Court Security, Civil Process Service Performance  
Outcomes—Category 3~~

~~Communications~~

~~In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to utilize a variety of communication skills designed to support the various duties required of the officer. Expected performance outcomes include this basic knowledge and cover the following:~~

~~3.1—3.13.~~

~~3.1. Communicate with law enforcement and detention facility personnel to exchange information in order to obtain or provide assistance in an investigation.~~

~~3.2. Interview a complainant, witness, victim, or inmate.~~

~~3.3. Summarize in writing the statements of inmates, witnesses and complainants.~~

~~3.4. Answer inquiries from prisoners or about prisoners according to agency policy (including talking with family, other people authorized by adult prisoners, or other agencies).~~

~~3.5. Calm emotionally upset individuals, and communicate an emergency message.~~

~~3.6. Use crisis communication techniques as appropriate (hostile/confrontational persons). Maintain calm and prevent a situation from becoming worse.~~

~~3.7. Stop or intervene with persons attempting to commit suicide.~~

~~3.8. Write reports.~~

~~3.9. Prepare written reports to record injuries to inmates, an officer, and an employee or a civilian.~~

~~3.10. Prepare for court testimony and testify in court; in a legal and an administrative proceeding; before grand juries; in criminal trials; in evidence suppression hearings; in implied consent hearings; at probable cause hearings.~~

~~3.11. Verbally communicate with people with different levels of understanding.~~

~~3.12. Manage stress professionally.~~

~~Jail Performance Outcomes—Category 4~~

~~Operations~~

~~In conjunction with responding to calls for jail services, the officer must demonstrate knowledge and ability to perform duties related to jail operations. Expected performance outcomes include this basic knowledge and cover the following:~~

~~4.1—4.9.~~

~~4.1. Commit a prisoner to a jail.~~

~~4.2. Supervise an inmate within a jail according to classification criteria.~~

~~4.3. Identify the records, documents and reports used within a jail.~~



- 4.4. Monitor visitors and inmates.
- 4.5. Observe and supervise inmates within and outside of a jail.
- 4.6. Transfer and/or release an inmate from a jail.
- 4.7. Protect inmates as needed and control violent or unruly inmates.
- 4.8. Administer cardio-pulmonary resuscitation (CPR) and basic first aid.
- 4.9. Conduct jail operations with awareness of terrorism possibilities.

Jail Performance Outcomes—Category 5

Investigations

In conjunction with responding to calls for jail services, the officer must demonstrate knowledge and ability relating to investigational skills designed to support the various duties of an officer. Expected performance outcomes include this basic knowledge and cover the following:

- 5.1.— 5.5.
- 5.1. Investigate complaints from inmates.
- 5.2. Use structured problem solving method to identify and alleviate the causes of problems within the jail.
- 5.3. Observe individual to recognize signs of abnormal behavior/mental illness.
- 5.4. Investigate unusual odors and sounds.
- 5.5. Investigate injuries to inmates.

Jail, Court Security, Civil Process Service Performance Outcomes—Category 6

Defensive Tactics/Use of Force

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to utilize a variety of defensive tactics along with judgment necessary to evaluate a situation relating to appropriate use of force. The safety of the officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

- 6.1.— 6.5. Officer Safety
- 6.1. Search juvenile(s), visitor(s), subject(s), arrested person(s), or inmates(s)
- 6.2. Restrain publicly intoxicated, disruptive, or violent individuals.
- 6.3. Participate in cell and area searches when assigned.
- 6.4. Extract a subject out of a vehicle and a cell.
- 6.5. Approach people on foot and from department vehicle.
- 6.6.— 6.7. Judgment and Use of Force Criteria
- 6.6. Identify necessary and appropriate use of force.
- 6.7. Break up fights between two or more persons.
- 6.8.— 6.13. Weaponless Defense Techniques

- 6.8. Use weaponless techniques to subdue a subject resisting arrest or to control a subject.
- 6.9. Subdue a physically attacking person.
- 6.10. Subdue a noncompliant subject/inmate and place in a prone position.
- 6.11. Pursue a fleeing subject/inmate on foot and subdue the subject/inmate when apprehended.
- 6.12. Use touch pressure or striking pressure to control a subject/inmate.
- 6.13. Disarm an armed subject.
- 6.14. Impact Weapon Techniques
- 6.14. Use an impact weapon to control a subject.
- 6.15. Physical Restraints
- 6.15. Handcuff subject(s) and apply restraints.
- 6.17.— 6.18. Chemical Agents
- 6.17. Use chemical agents and other crowd management equipment.
- 6.18. Control nonviolent groups, hostile groups, and/or disorderly assemblies and when necessary, physically restrain a crowd or confront in tactical formation.

Jail, Court Security, Civil Process Service Performance Outcomes—Category 7

Weapons Use

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to utilize a variety of weapons along with judgment necessary to evaluate a situation relating to appropriate use of force. The safety of the officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

- 7.1.— 7.6. Firearms Using, Cleaning, Transporting, Security
- 7.1. Clean and inspect weapon system.
- 7.2. Using proper hand grip and observation, draw issued weapon from holster.
- 7.3. Clear stoppage in semi-automatic weapons, revolvers, and shotguns. Demonstrate safe handling of weapons on the range and on and off duty.
- 7.4. Fire a handgun and shotgun in various combat situations using issued equipment.
- 7.5. Secure weapons while off duty.
- 7.6. Carry a firearm when off duty.

Jail, Court Security, Civil Process Service Performance Outcomes—Category 8

Transportation

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to drive a vehicle. The safety of the

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# Regulations

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officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

## ~~8.1. 8.3. Judgment and Application~~

~~8.1. Operate agency vehicle on various road surfaces and conditions.~~

~~8.2. Transport person(s) to various locations outside of the institution.~~

~~8.3. Transport ill or injured subject to receive medical care.~~

## ~~Jail Performance Outcomes — Category 9~~

### ~~Field Training~~

~~In conjunction with completing basic academy training, the deputy/jail officer must identify requirements related to the employing agency, and community resources and agencies that may assist a person in need. Expected performance outcomes include this basic knowledge and cover the following:~~

## ~~9.1 9.31. Policies, Procedures, and Operations~~

~~9.1. Identify agency policy regarding professional appearance related to clothing and grooming.~~

~~9.2. Identify agency policy and procedures for handling violations of professional, ethical, or legal standards of conduct by fellow deputies/jail officers.~~

~~9.3. Identify agency policies related to commitment and treatment of prisoners.~~

~~9.4. Identify agency policy and procedure related to treatment of juvenile offenders.~~

~~9.5. Identify agency policy and procedure related to communicating information about a prisoner to internal and external authorities.~~

~~9.6. Identify agency policy and procedure for obtaining assistance for communicating with various cultural backgrounds or with various disabilities.~~

~~9.7. Identify agency policy and procedure related to receiving, securing, and disbursing funds from an inmate's personal account.~~

~~9.8. Identify agency policy related to filing and retrieving records in agency system.~~

~~9.9. Identify agency policy related to removing a report from agency records system as appropriate and required by law and when assigned to make this removal.~~

~~9.10. Identify agency policy for reporting maintenance problems.~~

~~9.11. Identify agency policy for performing a safety inspection.~~

~~9.12. Identify agency policy and procedures for participating in searches with multiple agencies.~~

~~9.13. Identify agency policy and procedure for conducting interrogations.~~

~~9.14. Identify agency policy regarding the communication of emergency messages.~~

~~9.15. Identify agency policy and procedure for documenting proceedings related to dealing with emotionally upset individuals.~~

~~9.16. Identify agency policy and procedure for documenting proceedings related to an inmate who commits suicide.~~

~~9.17. Identify agency policy and procedures for obtaining an emergency custody order or temporary detention order.~~

~~9.18. Identify department policy related to explaining a violation of county or municipal ordinance(s) that is the basis for issuing a summons to a violator.~~

~~9.19. Identify department policy relating to use of discretion regarding a violation of law or ordinance.~~

~~9.20. Identify agency policy and procedure for establishing and tracking chain of custody of evidence.~~

~~9.21. Identify agency policy, procedure, and documentation required for return of property held as evidence when lawfully released.~~

~~9.22. Identify agency policy and procedure for making a warrantless arrest.~~

~~9.23. Identify agency policy regarding information that may be given to families of adult defendants.~~

~~9.24. Identify agency policy and procedure to initiate inmate disciplinary actions.~~

~~9.25. Identify agency policy and procedure to issue and document provision of nonprescription and prescription medicine in the absence of medical staff.~~

~~9.26. Identify agency policy related to sexual harassment in the workplace.~~

~~9.27. Identify agency policy and procedure related to operation of emergency vehicles.~~

~~9.28. Identify agency policy and procedures to follow upon the death of an inmate.~~

~~9.29. Identify agency policy and procedure for interrogations.~~

~~9.30. Identify department policy related to use of records, documents, and reports within the department.~~

~~9.31. Identify department policy and procedure for transporting and escorting a person for the purpose of obtaining personal property from a person under a restraining order.~~

## ~~9.32 9.37. Use of Force, Weapons Use~~

~~9.32. Identify agency policy related to use of force.~~

~~9.33. Identify agency policy related to use of restraints, weapons (including impact weapons), electronic immobilization devices, and chemical sprays.~~

~~9.34. Identify agency policy and procedure for documenting injuries to a prisoner.~~

~~9.35. Identify agency policy and procedure for documenting injuries to staff.~~

~~9.36. Identify agency policy and procedure for documenting incidents that required a use of force.~~

~~9.37. Identify agency policy related to carrying a firearm while off duty.~~

#### ~~9.38 — 9.40. Transporting Prisoners~~

~~9.38. Identify agency policy related to medical transports involving rescue squads or other nonagency vehicle.~~

~~9.39. Identify agency policy related to nontraditional medical transports, i.e., pregnant inmate, disabled inmate (various disabilities), etc.~~

~~9.40. Identify agency policy and procedure for searching, securing, and transporting a prisoner to mental health facility.~~

#### ~~9.41 — 9.44. Safety Training~~

~~9.41. Complete the Virginia Occupational Safety and Health training related to exposure to blood borne pathogens.~~

~~9.42. Demonstrate use of protective gear for air borne pathogens.~~

~~9.43. Notify persons exposed to blood or body fluids while assisting a deputy or jail officer that they have a right to the test results for HIV or hepatitis.~~

~~9.44. Identify procedure for a deputy or jail officer to follow to obtain a blood sample from an individual related to a blood exposure.~~

#### ~~9.45 — 9.61. General Tasks~~

~~9.45. Stand, walk or sit for more than half of work shift.~~

~~9.46. Perform duties while wearing heavy equipment other than a gun belt (SCBA, Scott Air Pack, Ballistic Vest, Riot Gear).~~

~~9.47. Participate in drills (fire, disaster, hostage situations, and/or evacuations).~~

~~9.48. Facilitate group meetings within facility, if assigned.~~

~~9.49. Review incoming and outgoing mail and distribute mail.~~

~~9.50. Operate controls and radios for facility.~~

~~9.51. Inspect security devices and report deficiencies.~~

~~9.52. Maintain security of keys and tools and report discrepancies.~~

~~9.53. Report and document need for repairs to any equipment or tools used in the facility.~~

~~9.54. Inspect/wear emergency response equipment and protective gear/apparatus of agency and report any deficiencies.~~

~~9.55. Operate agency fire extinguisher to extinguish fires.~~

~~9.56. Check audio/video communications equipment for proper operation and report any deficiencies.~~

~~9.57. Discuss any personal or on the job problems with your supervisor.~~

~~9.58. Inspect electrical wiring, plugs, and receptacles for operation and safety.~~

~~9.59. Inventory forms and other supplies.~~

~~9.60. Test emergency power supply when directed.~~

~~9.61. Fingerprint subject for commitment to jail if assigned.~~

#### ~~Separate Court Security Performance Outcomes~~

##### ~~1.1 — 1.5. Operations~~

~~1.1. Search courtrooms and court related areas for hidden weapons and contraband.~~

~~1.2. Search courtrooms and court related areas for hidden weapons and contraband.~~

~~1.3. Conduct periodic security checks to identify, correct and document any security breaches.~~

~~1.4. Evacuate courtrooms and court buildings in an emergency.~~

~~1.5. Conduct court security procedures with awareness of terrorism possibilities.~~

##### ~~9.1 — 9.1 8. Court Security Field Training~~

~~9.1. Identify agency policy regarding professional appearance related to clothing and grooming.~~

~~9.2. Identify agency policy and procedures for handling violations of professional, ethical, or legal standards of conduct by fellow deputies/court security officers.~~

~~9.3. Identify agency policies related to security of prisoners in court and determining any special security needs.~~

~~9.4. Identify agency policy and procedure related to treatment of juvenile prisoners.~~

~~9.5. Identify agency policy and procedure related to communicating information about a prisoner to internal and external authorities.~~

~~9.6. Identify agency policy and procedure for obtaining assistance for communicating with various cultural backgrounds or with various disabilities.~~

~~9.7. Identify department policy relating to emergency evacuation plans for courtrooms and courthouses.~~

~~9.8. Identify department policy and procedures related to jury protection and jury sequestering.~~

#### ~~Separate Civil Process Service Performance Outcomes~~

##### ~~1.1 — 1.8. Operations~~

~~1.1. Serve civil process and/or make proper return.~~

~~1.2. Handle problems encountered with animals during evictions and levies.~~

~~1.3. Halt civil process proceedings due to bankruptcy.~~

~~1.4. Notify jurors for potential jury service when assigned.~~

~~1.5. Execute levies.~~

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# Regulations

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- ~~1.6. Serve eviction notices.~~
- ~~1.7. Execute eviction orders using deputy safety precautions.~~
- ~~1.8. Oversee removal of physical property of evictee from premises.~~

## ~~9.1. 9.6. Civil Process Service Field Training~~

- ~~9.1. Identify agency policy regarding professional appearance related to clothing and grooming.~~
- ~~9.2. Identify agency policy and procedures for handling violations of professional, ethical, or legal standards of conduct by fellow process service officers.~~
- ~~9.3. Identify agency policy and procedure related to communicating information about service of process to internal and external authorities.~~
- ~~9.4. Identify agency policy and procedure for obtaining assistance for communicating with various cultural backgrounds or with various disabilities.~~
- ~~9.5. Identify agency policy and procedures for eviction when an outstanding warrant exists.~~
- ~~9.6. Identify department policy related to explaining a violation of county or municipal ordinance(s) that is the basis for service of process.~~

VA.R. Doc. No. R12-2612; Filed June 18, 2012, 10:01 a.m.

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## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Final Regulation

**REGISTRAR'S NOTICE:** The State Board of Education has claimed an exemption from 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 Board of Education will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **8VAC20-40. Regulations Governing Educational Services for Gifted Students (amending 8VAC20-40-60).**

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

**Effective Date:** August 29, 2012.

**Agency Contact:** Dr. Linda M. Wallinger, Assistant Superintendent for Instruction, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2034, FAX (804) 371-2350, or email linda.wallinger@doe.virginia.gov.

**Summary:**

*The amendment allows each school division to decide whether to establish a local advisory committee on gifted education.*

#### **8VAC20-40-60. Local plan, local advisory committee, and annual report.**

A. Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education (DOE) for technical review on a schedule determined by the department. Each school board shall approve a comprehensive plan for the education of gifted students that includes the components identified in these regulations. The development process for the school division's local plan for the education of the gifted shall include opportunities for public review of the school division's plan. The approved local plan shall be accessible through the school division's website and the school division shall ensure that printed copies of the comprehensive plan are available to citizens who do not have online access. The plan shall include the following components:

1. A statement of philosophy for the gifted education program and the local operational definition of giftedness for the school division;
2. A statement of the school division's gifted education program goals and objectives for identification, delivery of services, curriculum and instruction, professional development, equitable representation of students, and parent and community involvement;
3. Procedures for the early and on-going screening, referral, identification and placement of gifted students, beginning with kindergarten through twelfth-grade in at least a general intellectual or a specific academic aptitude program; and, if provided in the school division, procedures for the screening, referral, identification, and placement of gifted students in visual or performing arts or career and technical aptitude programs;
4. A procedure for written notification of parents or legal guardians when additional testing or additional information is required during the identification process and for obtaining permission of parents or legal guardians prior to placement of a gifted student in the appropriate service options;
5. A policy for written notification to parents or legal guardians of identification and placement decisions, including initial changes in placement or exit from the program. Such notice shall include an opportunity for parents or guardians to meet and discuss their concerns with an appropriate administrator and to file an appeal;
6. Assurances that student records are maintained in compliance with applicable state and federal privacy laws and regulations;
7. Assurances that (i) the selected and administered testing and assessment materials have been evaluated by the developers for cultural, racial, and linguistic biases; (ii)

identification procedures are constructed so that those procedures may identify high potential or aptitude in any student whose accurate identification may be affected by economic disadvantages, by limited English proficiency, or by disability; (iii) standardized tests and other measures have been validated for the purpose of identifying gifted students; and (iv) instruments are administered and interpreted by a trained personnel in conformity with the developer's instructions;

8. Assurances that accommodations or modifications determined by the school division's special education Individualized Education Program (IEP) team, as required for the student to receive a free appropriate public education, shall be incorporated into the student's gifted education services;

9. Assurances that a written copy of the school division's approved local plan for the education of the gifted is available to parents or legal guardians of each referred student, and to others upon request;

10. Evidence that gifted education service options from kindergarten through twelfth grade are offered continuously and sequentially, with instructional time during the school day and week to (i) work with their age-level peers, (ii) work with their intellectual and academic peers, (iii) work independently, and (iv) foster intellectual and academic growth of gifted students. Parents and legal guardians shall receive assessment of each gifted student's academic growth;

11. A description of the school division's program of differentiated curriculum and instruction demonstrating accelerated and advanced content;

12. Policies and procedures that allow access to programs of study and advanced courses at a pace and sequence commensurate with their learning needs;

13. Evidence that school divisions provide professional development based on the teacher competencies outlined in 8VAC20-542-310 related to gifted education; and

14. Procedures for the annual review of the effectiveness of the school division's gifted education program, including the review of screening, referral, identification, and program procedures toward the achievement of equitable representation of students, the review of student outcomes and the academic growth of gifted students. Such review shall be based on multiple criteria and shall include multiple sources of information.

B. Each school division ~~shall~~ may establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board. This committee shall reflect the ethnic and geographical composition of the school division. This committee shall have two responsibilities: (i) to review annually the local plan for the education of gifted students, including revisions, and (ii) to determine the extent to which the plan for the previous year

was implemented. The findings of the annual program effectiveness and the recommendations of the advisory committee shall be submitted annually in writing to the division superintendent and the school board.

C. Each school division shall submit an annual report to the Department of Education in a format prescribed by the department.

VA.R. Doc. No. R12-3300; Filed July 2, 2012; 4:22 p.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The State Board of Education is claiming an exemption from 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 where no agency discretion is involved. The State Board of Education will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-140, 8VAC20-131-360).**

**Statutory Authority:** §§ 22.1-19 and 22.1-253.13:3 of the Code of Virginia.

**Effective Date:** August 29, 2012.

**Agency Contact:** Anne Wescott, Assistant Superintendent, Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email [anne.wescott@doe.virginia.gov](mailto:anne.wescott@doe.virginia.gov).

**Summary:**

*Chapter 744 of the 2012 Acts of Assembly (HB 96) extends the delay of the implementation of the Academic Career Plan. The amendments conform the regulations to the law.*

**8VAC20-131-140. College and career preparation programs and opportunities for postsecondary credit.**

Each middle and secondary school shall provide for the early identification and enrollment of students in a college preparation program with a range of educational and academic experiences in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to attend college.

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 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

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# Regulations

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opportunities to take college courses simultaneously for high school graduation and college degree credit (dual enrollment), under the following conditions:

1. Written approval of the high school principal prior to participation in dual enrollment must be obtained;
2. The college must accept the student for admission to the course or courses; and
3. 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.

Beginning with the ~~2012-2013~~ 2013-2014 academic year, all schools shall begin development of a personal Academic and Career Plan 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 ~~2013-2014~~ 2014-2015 academic year, students who transfer into a Virginia public school after their eighth-grade year shall have an Academic and Career Plan developed upon enrollment. The components of the Plan shall include, but not be limited to, 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 Academic and Career Plan shall be developed in accordance with guidelines established by the Board of Education and signed by the student, student's parent or guardian, and school official(s) designated by the principal. The Plan 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 Plan. Any personal academic and career plans 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.

## **8VAC20-131-360. Effective date.**

A. The provisions in 8VAC20-131-30 B relating to double testing and the provisions in 8VAC20-131-60 C relating to Virtual Virginia shall become effective July 31, 2009.

B. Graduation requirements prescribed in 8VAC20-131-50 B and D shall become effective with the ninth-grade class of 2011-2012.

C. Graduation requirements prescribed in 8VAC20-131-50 C and E shall become effective with the ninth grade class of 2012-2013.

D. Schools with a graduating class shall meet prescribed thresholds on a graduation and completion rate index as prescribed in 8VAC20-131-280 and 8VAC20-131-300 for accreditation ratings earned in 2010-2011 and awarded in 2011-2012.

E. Accreditation ratings prescribed in 8VAC20-131-300 C 1 a shall become effective with tests administered in 2010-2011 and 2011-2012 for ratings awarded in 2011-2012 and 2012-2013.

F. Accreditation ratings prescribed in 8VAC20-121-300 C 1 c shall become effective with tests administered in 2012-2013 for ratings awarded in 2013-2014 and beyond.

G. The Academic and Career Plan prescribed in 8VAC20-131-140 shall become effective in ~~2012-2013~~ 2013-2014.

H. Unless otherwise specified, the remainder of these regulations shall be effective beginning with the 2011-2012 academic year.

VA.R. Doc. No. R12-3298; Filed July 2, 2012; 4:06 p.m.

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## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Reproposed Regulation

<p><b>REGISTRAR'S NOTICE:</b> The State Corporation Commission is exempt 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.</p>
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**Title of Regulation:** **14VAC5-300. Rules Governing Credit for Reinsurance (amending 14VAC5-300-10, 14VAC5-300-30, 14VAC5-300-40, 14VAC5-300-60 through 14VAC5-300-160; adding 14VAC5-300-95, 14VAC5-300-170; repealing 14VAC5-300-20, 14VAC5-300-50).**

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

**Public Hearing Information:** Public hearing will be held upon request.

**Public Comment Deadline:** August 13, 2012.

**Agency Contact:** Raquel C. Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, or email raquel.pino-moreno@scc.virginia.gov.

#### **Summary:**

*The proposed amendments incorporate revisions made by the National Association of Insurance Commissioners (NAIC) to its Credit for Reinsurance Model Regulation. The revisions provide the State Corporation Commission with the authority to (i) certify reinsurers or to recognize the certification issued by another NAIC-accredited state; (ii) evaluate a reinsurer that applies for certification and to assign a rating based on that evaluation; (iii) require that certified reinsurers post collateral in an amount that*

*corresponds with its assigned rating, so that a United States ceding insurer is allowed full credit for the reinsurance ceded; (iv) evaluate a non-United States jurisdiction to determine if it is a "qualified jurisdiction" or choose to defer to an NAIC list of recommended qualified jurisdictions; and (v) require ceding insurers to take steps to manage their concentration risk and to diversify their reinsurance program.*

*Additional revisions are proposed in response to comments received regarding the Order to Take Notice entered on April 3, 2012. These revisions are to 14VAC5-300-95 A 4 to clarify "catastrophic occurrence" and to 14VAC5-300-95 A 5 to clarify that both parties to a reinsurance contract must agree to an amendment before an existing reinsurance contract would fall under the new certified reinsurer requirements. Revisions are also proposed to 14VAC5-300-90 E to correct a citation reference and to 14VAC5-300-150 to add language regarding (i) an assuming insurer submitting to a court of competent jurisdiction and (ii) trust agreement requirements when the trust contains insufficient funds or is insolvent.*

AT RICHMOND, JULY 5, 2012

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2012-00058

Ex Parte: In the matter of  
Adopting Revisions to the Rules  
Governing Credit for Reinsurance

**ORDER TO TAKE NOTICE OF REVISED PROPOSED  
RULES**

By Order to Take Notice ("Order") entered April 3, 2012, all interested persons were ordered to take notice that subsequent to June 22, 2012, the State Corporation Commission ("Commission") would consider the entry of an order adopting amendments to rules set forth in Chapter 300 of Title 14 of the Virginia Administrative Code entitled Rules Governing Credit for Reinsurance, 14 VAC 5-300-10 et seq. ("Rules"), which specifically amend the Rules at 14 VAC 5-300-10, Purpose; 14 VAC 5-300-30, Applicability and scope; 14 VAC 5-300-40, Definitions; 14 VAC 5-300-60, Credit for reinsurance; reinsurer licensed in this Commonwealth; 14 VAC 5-300-70, Credit for reinsurance; accredited reinsurers; 14 VAC 5-300-80, Credit for reinsurance; reinsurer domiciled and licensed in another state, and neither licensed nor accredited in Virginia; 14 VAC 5-300-90, Credit for reinsurance; reinsurers maintaining trust funds; 14 VAC 5-300-100, Credit for reinsurance required by law; 14 VAC 5-300-110, Reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of § 38.2-1316.2 or 38.2-1316.3; 14 VAC 5-300-120, Trust agreements qualified under 14 VAC 5-300-110 and subdivision 2 of § 38.2-1316.4 of the Act; 14 VAC 5-300-130, Letters of credit qualifying for § 38.2-1316.4 credit under 14 VAC 5-

300-110; 14 VAC 5-300-140, Other security; 14 VAC 5-300-150, Reinsurance contract; and 14 VAC 5-300-160, Contracts affected; as well as propose new Rules at 14 VAC 5-300-95, Credit for reinsurance; certified reinsurers; and 14 VAC 5-300-170, Severability; and repeal the Rules at 14 VAC 5-300-20, Severability; and 14 VAC 5-300-50, Credit for reinsurance generally; unless on or before June 22, 2012, any person objecting to the adoption of the amendments to the Rules filed a request for a hearing with the Clerk of the Commission ("Clerk").

The Order also required all interested persons to file their comments in support of or in opposition to the proposed amendments to the Rules with the Clerk on or before June 22, 2012.

Allstate Insurance Company and Underwriters at Lloyd's, London timely filed comments with the Clerk to which the Commission's Bureau of Insurance ("Bureau") provided a response in the form of a Statement of Position filed with the Clerk on June 29, 2012. The Bureau also received comments from the Reinsurance Association of America which the Bureau responded to in its Statement of Position.

As a result of these comments, the Bureau recommends that the proposed amendments to the Rules be further revised as follows:

- (1) Amend the new rule at 14 VAC 5-300-95 at subsection A 4 to clarify that the deferral for posting collateral after a catastrophic event should be granted only in those instances where the catastrophic event is likely to result in significant insured losses.
- (2) Amend the new rule at 14 VAC 5-300-95 at subsection A 5 to provide that the Rules do not apply retroactively unless the retroactive application is agreed to by both parties to the reinsurance contract.
- (3) Amend the rule at 14 VAC 5-300-90 at subsection E to correct a citation reference.
- (4) Amend the rule at 14 VAC 5-300-150 to include (1) language providing that an assuming insurer will submit to a court of competent jurisdiction, and (2) requirements for trust agreements in instances when a trust becomes insolvent.

The Bureau recommends that the proposed amendments to the Rules and the revisions outlined above be exposed for additional comment until August 13, 2012.

NOW THE COMMISSION, having considered the comments, the Bureau's response to the comments and recommendation, and the proposed amendments to the Rules, is of the opinion that the revised proposed Rules should be exposed for further comment until August 13, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The revised proposed Rules Governing Credit For Reinsurance, 14 VAC 5-300-10 et seq., which specifically amend the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300-60, 14 VAC 5-300-70,

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# Regulations

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14 VAC 5-300-80, 14 VAC 5-300-90, 14 VAC 5-300-100, 14 VAC 5-300-110, 14 VAC 5-300-120, 14 VAC 5-300-130, 14 VAC 5-300-140, 14 VAC 5-300-150, and 14 VAC 5-300-160; propose new Rules at 14 VAC 5-300-95 and 14 VAC 5-300-170; and repeal the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50, be attached hereto and be 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 the adoption of the revised proposed Rules shall file such comments or hearing request on or before August 13, 2012, in writing, with Joel H. Peck, Clerk, State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. INS-2012-00058. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) If no written request for a hearing on the revised proposed Rules is filed on or before August 13, 2012, the Commission, upon consideration of any comments submitted in support of or in opposition to the revised proposed Rules, may adopt the revised Rules as proposed by the Bureau.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the revised proposed Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make available this Order and the attached revised proposed Rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) AN ATTESTED COPY hereof, together with a copy of the revised proposed Rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revised Rules by mailing a copy of this Order, together with the revised proposed Rules, to all licensed insurers, burial societies, fraternal benefit societies, health services plans, risk retention groups, home protection companies, joint underwriting associations, group self-insurance pools, and group self-insurance associations licensed by the Commission, qualified reinsurers and certain interested parties designated by the Bureau.

(6) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (5) above.

## **14VAC5-300-10. Purpose.**

The purpose of this chapter (~~14VAC5-300-10 et seq.~~) is to set forth rules and procedural requirements which the ~~Commission~~ commission has determined are necessary to carry out the provisions of Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia.

## **14VAC5-300-20. Severability. (Repealed.)**

~~If any provision of this chapter or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are severable.~~

## **14VAC5-300-30. Applicability and scope.**

This chapter (~~14VAC5-300-10 et seq.~~) shall apply to all insurers taking credit for reinsurance under the provisions of Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia.

## **14VAC5-300-40. Definitions.**

~~For purposes of~~ The following words and terms when used in this chapter (~~14VAC5-300-10 et seq.~~) shall have the following meanings unless the context clearly indicates otherwise:

"The Act" means the provisions concerning reinsurance set forth in Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia.

~~"Accredited reinsurer" has the meaning set forth in § 38.2-1316.1 of the Code of Virginia.~~

~~"Accredited state" means a state in which the supervising insurance official, state insurance department or regulatory agency is accredited by the National Association of Insurance Commissioners (NAIC) with respect to compliance with the NAIC Policy Statement on Financial Regulation Standards.~~

~~"Audited financial report" means and includes those items specified in 14VAC5-270-60 of this title, "Rules Governing Annual Audited Financial Reports."~~

"Beneficiary" means the entity for whose sole benefit the trust described in 14VAC5-300-120 ~~of this chapter~~, or the letter of credit described in 14VAC5-300-130 ~~of this chapter~~, has been established and any successor of the beneficiary by operation of law, including, without limitation, any receiver, conservator, rehabilitator or liquidator.

"Certified reinsurer" has the meaning set forth in § 38.2-1316.1 of the Code of Virginia.

~~"Credit" has the meaning defined in § 38.2-1316.1 of the Code of Virginia.~~

"Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. However, when such a trust is established in conjunction with a reinsurance agreement that qualifies for credit under 14VAC5-300-120 ~~of this chapter~~, the grantor shall not be an assuming insurer for which credit can be taken under § 38.2-1316.2 ~~or § 38.2-1316.3~~ of the Code of Virginia.

"Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:



1. Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

a. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 USCA § 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

b. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 USCA §§ 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 USCA § 1703; or

2. Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of items 1 a and b of this definition.

"NAIC" means the National Association of Insurance Commissioners.

"Obligations", as used in 14VAC5-300-120 B 6 of this chapter 14VAC5-300-120 A 11, means:

1. Reinsured losses and allocated loss expense expenses paid by the ceding company, but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported; and
4. Reserves for allocated reinsured loss expenses and unearned premiums.

"Promissory note" means, when used in connection with a manufactured home, a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

"Qualified United States financial institutions" has the meanings set forth in § 38.2-1316.1 of the Code of Virginia.

~~"Statutory financial statement" means financial statements filed on either a quarterly or annual basis with the supervising insurance official, insurance department or insurance regulatory agency of the assuming insurer's state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance. Any statutory financial statement required under this chapter shall be filed in accordance with the filing dates prescribed for the financial statements filed by licensed insurers pursuant to §§ 38.2-1300 and 38.2-1301 of the Code of Virginia.~~

~~"Substantially similar" standards means credit for reinsurance standards which the Commission determines equal or exceed the standards of the Act and this chapter (14VAC5-300-10 et seq.). An insurer licensed and domiciled, or entered through and licensed, in an accredited state is deemed to be subject to substantially similar standards for purposes of the Act and this chapter.~~

~~"Surplus to policyholders" (i) when applied to a domestic or foreign assuming insurer, has the meaning set forth in § 38.2-100 of the Code of Virginia, and (ii), when applied to an alien assuming insurer, means "trusteed surplus" as defined in § 38.2-1031 of the Code of Virginia. In both instances as used in this chapter, the calculation and verification of such surplus shall be subject to the provisions of Title 38.2 of the Code of Virginia pertaining to admitted assets, investments, reserve requirements and other liabilities.~~

~~**14VAC5-300-50. Credit for reinsurance generally. (Repealed.)**~~

~~A. Except for those credits or reductions in liability allowed pursuant to § 38.2-1316.4 of the Act, a ceding insurer shall not receive reserve credits for reinsurance unless the assuming insurer meets certain financial and licensing requirements established by §§ 38.2-1316.2 and 38.2-1316.3 of the Act. The following subdivisions of this section and 14VAC5-300-60 through 14VAC5-300-90 of this chapter set forth requirements for such assuming insurers.~~

~~B. The Act also contains examination and jurisdiction submission requirements by which most assuming insurers are required to submit to the examination authority of the Commission and the limited jurisdiction of this Commonwealth. The assuming insurer may also be required to appoint the Clerk of the Commission as statutory agent for service of process in any action, suit or proceeding arising out of a reinsurance agreement for which credit is taken under the Act, and instituted by or on behalf of the ceding insurer. The following provisions shall apply whenever such submissions or appointments are required by the Act or this chapter:~~

- ~~1. The submissions shall be executed and filed in duplicate on forms approved by the Commission.~~
- ~~2. When the assuming insurer is an incorporated company, each appointment or submission shall be executed by a duly authorized officer of the corporation. When the assuming insurer is an unincorporated group of persons,~~

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# Regulations

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such forms may be executed by a trustee or other duly appointed and authorized representative of the group. In no case shall the executing officer, trustee, or representative be affiliated with or employed by a corresponding ceding insurer.

3. A submission to limited jurisdiction and any appointment of the Clerk of the Commission as agent for service of process shall be accompanied by a current listing of ceding insurers for whom jurisdiction through courts in Virginia is acknowledged. The listing shall identify all ceding insurers domiciled in Virginia with whom reinsurance agreements are in effect. For each ceding insurer identified, the listing shall report the complete name, address, domicile, and, for those companies registered with the NAIC, the identifying NAIC number of the ceding insurer. Such listing shall be updated at least annually unless more frequent filings are requested by the Commission.

C. It is possible for a ceding insurer to take credit for a reinsurance transaction in one of two ways even if the assuming company cannot satisfy the threshold financial and licensing requirements or is unwilling to make the examination and jurisdiction submissions provided for in the Act. In such instances, the controlling statute is § 38.2-1316.4 of the Act.

1. Under subdivision 1 of § 38.2-1316.4, credit may be taken if the transaction is required by law, however, the amount of credit may be restricted as provided in 14VAC5-300-100 of this chapter.

2. Under subdivision 2 of § 38.2-1316.4, credit may be taken in the form of a reduction from liability for collateralized transactions. 14VAC5-300-110 through 14VAC5-300-140 of this chapter relate to collateralized transactions, including those secured by letters of credit.

D. Regardless of whether a ceding insurer seeks credit pursuant to § 38.2-1316.2, § 38.2-1316.3 or § 38.2-1316.4 of the Act, no balance sheet adjustments can be made unless the reinsurance agreement satisfies the conditions of § 38.2-1316.5 of the Act and 14VAC5-300-150 of this chapter. Additional conditions set forth throughout this chapter can affect transactions involving trusteed funds or groups of assuming insurers.

E. The ceding insurer is responsible for determining, in advance of taking any credit for reinsurance, whether the assuming insurer is willing and able to satisfy the licensing and financial conditions, and make the examination and jurisdictional submissions provided for in § 38.2-1316.2 or § 38.2-1316.3 of the Act. If such conditions are not satisfied, or such submissions are not made in a proper and timely manner as required by this chapter, credit for reinsurance may be disallowed in the ceding insurer even though the required materials or filings may originate, by necessity or definition, with the assuming insurer.

For purposes of the Act, and except as otherwise approved by the Commission, an insurer shall not be considered "licensed" unless it is fully authorized to actively solicit and conduct its business in the appropriate jurisdiction.

F. Except as provided elsewhere in this chapter, all filings required by the Act or this chapter shall be filed (i) prior to the date of the statutory financial statement under which the ceding insurer in a given reinsurance agreement initially seeks credit according to the provisions of the Act, and (ii) on or before March 1 of each successive year in which the ceding insurer seeks credit or the assuming insurer seeks standing in this Commonwealth as an accredited reinsurer.

G. Unless an extension for the time of filing is first granted in writing, the failure to submit timely filings or to respond within 10 days to any request by the Commission for additional documents shall be considered grounds for disallowing credit and/or revoking the standing of an accredited reinsurer. Extensions may be granted for any period determined by the Commission, provided, the request for extension is in writing and is supported by a showing of good and valid cause.

## **14VAC5-300-60. Credit for reinsurance; reinsurer licensed in this Commonwealth.**

Pursuant to §§ § 38.2-1316.2 A 1 and 38.2-1316.3 A1 B of the Act, the Commission commission shall allow credit when reinsurance is ceded to an assuming insurer which is licensed to transact insurance in this Commonwealth. For purposes of this section, an insurer shall not be considered so "licensed" unless it is fully authorized to actively solicit and conduct its business in this Commonwealth and in its domiciliary state.

## **14VAC5-300-70. Credit for reinsurance; accredited reinsurers.**

A. Pursuant to § 38.2-1316.2 A 2 and § 38.2-1316.3 A1 of the Act, the Commission commission shall allow credit when reinsurance is ceded to an assuming insurer which is an accredited reinsurer as of the date of the ceding insurer's statutory financial statement.

B. An assuming insurer which satisfies the filing requirements of this section, and which maintains a surplus to policyholders in an amount not less than \$20 million shall be recognized in this Commonwealth as an accredited reinsurer.

1. Such insurer's initial request for standing as an accredited reinsurer shall be deemed granted 90 days following the Commission's receipt of documents required by subdivisions D 1 and D 2, unless the Commission specifically requests, in writing, information pursuant to subdivision D 3 of this section.

2. Any request by the Commission for additional information pursuant to subdivision D 3 of this section, shall toll the statutory provisions for automatic recognition as an accredited reinsurer.

C. An assuming insurer which fails to maintain surplus to policyholders of at least \$20 million may request recognition

as an accredited reinsurer by filing, in addition to the other requirements set forth in this section, a letter of explanation as to why its surplus is less than \$20 million and justification as to why the Commission should recognize the accreditation of such assuming insurer.

1. Such insurers shall be recognized as accredited reinsurers only upon a showing of good and valid cause.
2. Such insurers' standing as accredited reinsurers may be limited to certain types of reinsurance transactions, or otherwise applicable only with regard to specified types of reinsurance contracts, such as pooling arrangements among affiliates within the same holding company system.

**D. Filing requirements.**

1. As a condition of accreditation, an accredited reinsurer shall file with the Commission:
  - a. Evidence of its submission to the Commission's authority to examine its books and records; and
  - b. Evidence of its submission to this Commonwealth's jurisdiction and appointment of the Clerk of the Commission as agent for service of process in any action, suit or proceeding instituted by or on behalf of the ceding company.
2. The following documents shall be filed prior to accreditation and annually thereafter for as long as the assuming insurer seeks standing in this Commonwealth as an accredited reinsurer.
  - a. A certified copy of a certificate of authority or of compliance or other evidence that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state.
  - b. A copy of its statutory financial statement, and
  - c. A copy of its most recent audited financial report.
3. In addition to the foregoing, the insurer shall file, upon the request of the Commission, any additional information, certifications or reports of the assuming insurer as the Commission determines are necessary to verify the licensing status or financial condition of the assuming insurer.

for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in this Commonwealth as of the date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer shall:

1. File a properly executed Certificate of Assuming Insurer as evidence of its submission to this Commonwealth's jurisdiction and to this Commonwealth's authority to examine its books and records;
2. File with the commission a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming

insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

3. File annually with the commission a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

4. Maintain a surplus as regards policyholders in an amount not less than \$20 million, or obtain the affirmative approval of the commission upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

B. If the commission determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commission may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been revoked by the commission, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commission.

**14VAC5-300-80. Credit for reinsurance; reinsurer domiciled and licensed in another state, and neither licensed nor accredited in Virginia.**

A. Pursuant to the provisions of § 38.2-1316.2 A 3 of the Act, the Commission commission shall allow credit when a domestic insurer cedes reinsurance to an assuming insurer which as of the date of the ceding insurer's statutory financial statement:

1. Maintains a surplus to policyholders in an amount not less than \$20 million;
2. Is domiciled and licensed, or entered through and licensed, in a state which employs standards regarding credit for reinsurance substantially similar to those applicable under the Act and this chapter;
3. Submits to the Commission's authority to examine its books and records;
4. Submits to this Commonwealth's jurisdiction and designates the Clerk of the Commission as agent for service of process in any action, suit or proceeding instituted by or on behalf of the ceding company; and
5. Satisfies the applicable filing requirements set forth in subsection C of this section.

B. A foreign or alien ceding insurer taking credit pursuant to § 38.2 1316.3 A2 of the Act must cede reinsurance to an assuming insurer which:

1. Maintains a surplus to policyholders in an amount not less than \$20 million;
2. Is licensed and authorized to actively solicit and conduct its business in at least one state; and

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# Regulations

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~~3. Satisfies the applicable filing requirements set forth in subsection C of this section.~~

## ~~C. Filing requirements.~~

~~1. When credit is requested for a domestic ceding insurer, the Commission may require that the ceding insurer file or cause to be filed:~~

~~a. Evidence to support a finding by the Commission that the assuming insurer's state of domicile, or entry, employs standards regarding credit for reinsurance substantially similar to those set forth in the Act. Such evidence must be in a form acceptable to the Commission, and at the request of the Commission shall consist of statutes, regulations, and interpretations of the standards utilized by the state of domicile, or entry.~~

~~b. Such additional information, certifications, or reports of the assuming insurer as the Commission determines are necessary to verify the licensing status or financial condition of the assuming insurer.~~

~~2. When credit is requested for a foreign or alien ceding insurer, the Commission may require the ceding insurer to file or cause to be filed such information, certifications or reports of the assuming insurer as the Commission determines are necessary to verify the licensing status or financial condition of the assuming insurer.~~

~~3. When reinsurance is ceded by a domestic insurer and assumed pursuant to pooling arrangements among insurers in the same holding company, unless specifically required by the Commission, the \$20 million surplus to policyholder requirement shall be deemed waived. Notwithstanding this provision, the Commission may require the ceding insurer to file or cause to be filed:~~

~~a. A copy of the underlying pooling agreement.~~

~~b. Such additional information, certifications or reports of the members of the pooling arrangement as the Commission determines are necessary to verify the financial condition of the collective or individual members of the pooling arrangement.~~

for reinsurance ceded by a domestic insurer to an assuming insurer that as of any date on which statutory financial statement credit for reinsurance is claimed:

1. Is domiciled in (or, in the case of a United States branch of an alien assuming insurer, is entered through) a state that employs standards regarding credit for reinsurance substantially similar to those applicable under the Act and this chapter;

2. Maintains a surplus as regards policyholders in an amount not less than \$20 million; and

3. Files a properly executed Certificate of Assuming Insurer with the commission as evidence of its submission to this Commonwealth's authority to examine its books and records.

B. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards that the commission determines equal or exceed the standards of the Act and this chapter.

## **14VAC5-300-90. Credit for reinsurance; reinsurers maintaining trust funds.**

A. Pursuant to § 38.2-1316.2 A 4 ~~or § 38.2-1316.3 A 3~~ of the Act, the commission shall allow credit for reinsurance ceded to a trustee assuming insurer which, as of the date of the ceding insurer's statutory financial statement:

1. Maintains a trust fund and trustee surplus that complies with the provisions of § 38.2-1316.2 A 4 ~~of the Act~~;

2. Complies with the requirements set forth in subsections B, C and D of this section; and

3. Reports annually to the commission on or before June 1 of each year in which a ceding insurer seeks reserve credit under the Act substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commission to determine the sufficiency of the trust fund. The accounting shall, among other things, set forth the balance to the trust and list the trust's investments as of the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

~~B. When credit is taken for reinsurance ceded to any trustee assuming insurer, the commission may require that the ceding insurer file or cause to be filed:~~

~~1. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in subsection E of this section;~~

~~2. Satisfactory evidence that the requisite trust funds are held in a qualified United States financial institution;~~

~~3. A certified statement and accounting of trustee surplus executed by a duly authorized officer or representative of the trustee assuming insurer;~~

~~4. A certified statement from the trustee of the trust listing the assets of the trust; and~~

~~5. A certified English translation for any foreign language documents filed pursuant to the Act or this chapter.~~

C. When credit is requested for reinsurance ceded to trustee assuming insurer which is a group including incorporated and individual unincorporated underwriters, the group shall make available to the commission annual certifications of solvency of each underwriter member of the group, prepared by the group's domiciliary regulator and its independent accountant, or if a certification is unavailable a financial statement,

~~prepared by independent public accountants, of each underwriter member of the group.~~

~~D. When credit is requested for reinsurance ceded to a trustee assuming insurer which is a group of incorporated insurers under common administration, the group shall:~~

- ~~1. File evidence of its submission to the commission's authority to examine the books and records of any member of the group.~~
- ~~2. Certify that any member examined will bear the expense of any such examination.~~
- ~~3. Make available to the commission an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements prepared by independent public accountants of each underwriter member of the group.~~
- ~~4. If requested by the commission, file copies of annual statements for the three year period preceding the initial request for credit, or other documents satisfactory to the commission, which show that the group has continuously transacted an insurance business outside the United States for at least three years.~~

~~E. Form of Trust. The trust required under § 38.2-1316.2 A 4 of the Act and subdivisions A 2, A 3, B 1, and B 2 of this section shall provide that: B. The following requirements apply to the following categories of assuming insurer:~~

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subdivision 2 of this subsection.
2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.
3. a. The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(1) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(2) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this chapter, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(3) In addition to these trusts, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all the years of account.

b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commission:

(1) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(2) If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

4. a. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10 billion (calculated and reported in substantially the same manner as prescribed by the NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall:

(1) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by United States domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;

(2) Maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group; and

(3) File a properly executed Certificate of Assuming Insurer as evidence of the submission to this

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# Regulations

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Commonwealth's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

b. Within 90 days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the commission an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

C. 1. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

~~1. a.~~ Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;

~~2. b.~~ Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;

~~3. c.~~ The trust and the assuming insurer shall be subject to examination as determined by the commission;

~~4. d.~~ The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and

~~5. e.~~ No later than February 28 of each year the trustees of the trust (i) shall report to the commission in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end and (ii) shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next December 31.

~~F. Any amendment to the trust, required under § 38.2-1316.2 A 4 of the Act and subdivisions A 1, A 3, B 1, and B 2 of this section, shall be filed with the commission within 30 days after the effective date of the amendment.~~

2. a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with

an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

D. For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by United States domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:

1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;

b. Reserves for losses reported and outstanding;

c. Reserves for losses incurred but not reported;

d. Reserves for allocated loss expenses; and

e. Unearned premiums.

2. For business ceded by domestic insurers authorized to write life, health, and annuity insurance:

a. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

b. Aggregate reserves for accident and health policies;

c. Deposit funds and other liabilities without life or disability contingencies; and

d. Liabilities for policy and contract claims.

E. Assets deposited in trusts established pursuant to § 38.2-1316.2 [A] of the Act and this section shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States financial institution as defined in § 38.2-1316.1 of the Act, clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States financial institution, as defined in

§ 38.2-1316.1, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5.0% of total investments. No more than 20% of the total of the investments in the trust may be foreign investments authorized under subdivisions 1 e, 3, 5 b, or 6 of this subsection, and no more than 10% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in United States dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of § 38.2-1316.2 [ A-4 ] shall be invested only as follows:

1. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed, or guaranteed by:

a. The United States or by any agency or instrumentality of the United States;

b. A state of the United States;

c. A territory, possession, or other governmental unit of the United States;

d. An agency or instrumentality of a governmental unit referred to in subdivisions 1 b and c of this subsection if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this subsection if payable solely out of special assessments on properties benefited by local improvements; or

e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-United States market, by a solvent United States institution (other than an insurance company) or that are assumed or guaranteed by a solvent United States institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this Commonwealth and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or

c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

3. Obligations issued, assumed or guaranteed by a solvent non-United States institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of United States corporations issued in a non-United States currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

4. An investment made pursuant to the provisions of subdivision 1, 2, or 3 of this subsection shall be subject to the following additional limitations:

a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5.0% of the assets of the trust;

b. An investment in any one mortgage-related security shall not exceed 5.0% of the assets of the trust;

c. The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust; and

d. Preferred or guaranteed shares issued or guaranteed by a solvent United States institution are permissible investments if all of the institution's obligations are eligible as investments under subdivisions 2 a and c of this subsection, but shall not exceed 2.0% of the assets of the trust.

5. Equity interests.

a. Investments in common shares or partnership interests of a solvent United States institution are permissible if:

(1) Its obligations and preferred shares, if any, are eligible as investments under this subsection; and

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 USC §§ 78 a to 78 kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this subdivision an amount exceeding 1.0% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

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# Regulations

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b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed 1.0% of the assets of the trust. The cost of an investment in equity interests made pursuant to this subdivision, when added to the aggregate cost of other investments in equity interests then held pursuant to this subdivision, shall not exceed 10% of the assets in the trust;

6. Obligations issued, assumed, or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

7. Investment companies.

a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 USC § 80 a, are permissible investments if the investment company:

(1) Invests at least 90% of its assets in the types of securities that qualify as an investment under subdivision 1, 2, or 3 of this subsection or invests in securities that are determined by the commission to be substantively similar to the types of securities set forth in subdivision 1, 2, or 3 of this subsection; or

(2) Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subdivision 5 a of this subsection;

b. Investments made by a trust in investment companies under this subdivision shall not exceed the following limitations:

(1) An investment in an investment company qualifying under subdivision 7 a (1) of this subsection shall not exceed 10% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed 25% of the assets in the trust; and

(2) Investments in an investment company qualifying under subdivision 7 a (2) of this subsection shall not exceed 5.0% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subdivision 5 a of this subsection.

8. Letters of credit.

a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commission), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to 14VAC5-300-100 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

## **14VAC5-300-95. Credit for reinsurance; certified reinsurers.**

A. Pursuant to § 38.2-1316.2 B of the Act, the commission shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this Commonwealth at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commission. The security shall be in a form consistent with the provisions of § 38.2-1316.2 B and 14VAC5-300-110, 14VAC5-300-120, 14VAC5-300-130 or 14VAC5-300-140. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

<u>1. Ratings</u>	<u>Security Required</u>
<u>Secure – 1</u>	<u>0.0%</u>
<u>Secure – 2</u>	<u>10%</u>
<u>Secure – 3</u>	<u>20%</u>
<u>Secure – 4</u>	<u>50%</u>
<u>Secure – 5</u>	<u>75%</u>
<u>Vulnerable – 6</u>	<u>100%</u>

2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.



3. The commission shall require the certified reinsurer to post 100%, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence [ that is likely to result in significant insured losses, ] as recognized by the commission. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

- a. Line 1: Fire
- b. Line 2: Allied Lines
- c. Line 3: Farmowners multiple peril
- d. Line 4: Homeowners multiple peril
- e. Line 5: Commercial multiple peril
- f. Line 9: Inland marine
- g. Line 12: Earthquake
- h. Line 21: Auto physical damage

5. Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended [ by mutual agreement of the parties to the reinsurance contract ] after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

6. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

**B. Certification procedure.**

1. The commission shall post notice on the Bureau of Insurance's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commission may not take final action on the application until at least 30 days after posting the notice required by this subdivision.

2. The commission shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection A of this section. The commission shall publish a list of all certified reinsurers and their ratings.

3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

a. The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commission pursuant to subsection C of this section.

b. The assuming insurer shall maintain capital and surplus, or its equivalent, of no less than \$250 million calculated in accordance with subdivision 4 h of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.

c. The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commission. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commission in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- (1) Standard & Poor's;
- (2) Moody's Investors Service;
- (3) Fitch Ratings;
- (4) A.M. Best Company; or
- (5) Any other nationally recognized statistical rating organization.

d. The certified reinsurer shall comply with any other requirements reasonably imposed by the commission.

4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

a. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its

# Regulations

financial strength rating as outlined in the table below. The commission shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B- C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

c. For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC annual statement blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

d. For certified reinsurers not domiciled in the United States, a review annually of the Assumed Reinsurance Form CR-F (for property/casualty reinsurers) or the Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Form CR-S (for life and health reinsurers) of this chapter;

e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

f. Regulatory actions against the certified reinsurer;

g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision 4 h of this subsection;

h. For certified reinsurers not domiciled in the United States, audited financial statements (audited United States GAAP basis if available, audited IFRS basis statements are allowed but shall include an audited footnote reconciling equity and net income to a United States GAAP basis), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor). Upon the initial application for certification, the commission will consider audited financial statements for the last three years filed with its non-United States jurisdiction supervisor;

i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commission shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

k. Any other information deemed relevant by the commission.

5. Based on the analysis conducted under subdivision 4 e of this subsection of a certified reinsurer's reputation for prompt payment of claims, the commission may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commission shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subdivision 4 a of this subsection if the commission finds that:

a. More than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed \$100,000 for each cedent; or

b. The aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by 90 days or more exceeds \$50 million.

6. The assuming insurer shall submit a properly executed Certificate of Certified Reinsurer as evidence of its submission to the jurisdiction of this Commonwealth, appointment of the commission as an agent for service of process in this Commonwealth, and agreement to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commission shall not certify any assuming insurer that is domiciled in a jurisdiction that the commission has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

7. The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commission, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that are not otherwise public information subject to disclosure shall be exempted from disclosure under §§ 38.2-221.3 and 38.2-1306.1 of the Act and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

a. Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

b. Annually, Form CR-F or CR-S, as applicable;

c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision 7 d of this subsection;

d. Annually, audited financial statements (audited United States GAAP basis if available, audited IFRS basis statements are allowed but shall include an audited footnote reconciling equity and net income to a United States GAAP basis), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three years filed with the certified reinsurer's supervisor;

e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;

f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

g. Any other information that the commission may reasonably require.

8. Change in rating or revocation of certification.

a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commission shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subdivision 4 a of this subsection.

b. The commission shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commission to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

c. If the rating of a certified reinsurer is upgraded by the commission, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commission shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commission, the commission shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

d. Upon revocation of the certification of a certified reinsurer by the commission, the assuming insurer shall be required to post security in accordance with 14VAC5-300-110 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with 14VAC5-300-90, the commission may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commission to be at high risk of uncollectibility.

C. Qualified jurisdictions.

1. If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-United States assuming insurer, the commission determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commission shall publish notice and evidence of such recognition in an appropriate manner. The commission may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

2. In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commission shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commission shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commission as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the commission with respect to all certified reinsurers

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# Regulations

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domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commission, include but are not limited to the following:

a. The framework under which the assuming insurer is regulated.

b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

e. The domiciliary regulator's willingness to cooperate with United States regulators in general and the commission in particular.

f. The history of performance by assuming insurers in the domiciliary jurisdiction.

g. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commission has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.

h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

i. Any other matters deemed relevant by the commission.

3. A list of qualified jurisdictions shall be published through the NAIC committee process. The commission shall consider this list in determining qualified jurisdictions. If the commission approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commission shall provide thoroughly documented justification with respect to the criteria provided under subdivisions 2 a through i of this subsection.

4. United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of certification issued by an NAIC accredited jurisdiction.

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commission has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly

executed Certificate of Certified Reinsurer and such additional information as the commission requires. The assuming insurer shall be considered to be a certified reinsurer in this Commonwealth.

2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this Commonwealth as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commission of any change in its status or rating within 10 days after receiving notice of the change.

3. The commission may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subdivision B 7 a of this section.

4. The commission may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commission suspends or revokes the certified reinsurer's certification in accordance with subdivision B 7 b of this section, the certified reinsurer's certification shall remain in good standing in this Commonwealth for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this Commonwealth.

E. Mandatory funding clause. In addition to the clauses required under 14VAC5-300-150, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The commission shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

## **14VAC5-300-100. Credit for reinsurance required by law.**

When an assuming insurer fails to meet the requirements of § 38.2-1316.2 ~~or § 38.2-1316.3~~ of the Act, the ceding insurer may take credit pursuant to subdivision 1 of § 38.2-1316.4 of the Act but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

## **14VAC5-300-110. ~~Reduction Asset or reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of § 38.2-1316.2 or 38.2-1316.3~~ 14VAC5-300-60 through 14VAC5-300-100.**

~~A. A ceding insurer taking credit pursuant to subdivision 2 of § 38.2-1316.4 of the Act for reinsurance ceded shall be allowed such reduction from liability only when the requirements of subdivision 2 of § 38.2-1316.4 of the Act and~~

14VAC5-300-120, 14VAC5-300-130 or 14VAC5-300-140 of this chapter are met.

~~B. In determining the appropriateness of the proposed security arrangement or accounting treatment, the Commission may consider the guidelines and other criteria as set forth in the NAIC Examiners' Handbook, NAIC practice and procedure manuals, or annual statement instructions in effect when the Commission exercises discretion under the Act or this chapter (14VAC5-300-10 et seq.).~~ A. Pursuant to § 38.2-1316.4 of the Act, the commission shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of § 38.2-1316.2 of the Act in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in § 38.2-1316.1 of the Act. This security may be in the form of any of the following:

(1) Cash;

(2) Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the NAIC Securities Valuation Office, and qualifying as admitted assets;

(3) Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in § 38.2-1316.1 of the Act, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(4) Any other form of security acceptable to the commission.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of 14VAC5-300-150 and the applicable portions of 14VAC5-300-120, 14VAC5-300-130, or 14VAC5-300-140 of this chapter have been satisfied.

**14VAC5-300-120. Trust agreements qualified under 14VAC5-300-110 and subdivision 2 of § 38.2-1316.4 of the Act.**

A. When a ceding insurer takes credit pursuant to subdivision 2 of § 38.2-1316.4 of the Act for reinsurance transactions secured by funds held in trust, the underlying trust agreement shall meet the following conditions:

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution, as those terms are defined in this chapter (14VAC5-300-10 et seq.).

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, ~~except that a bank may apply for the Commission's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the Commission approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subdivision A 4 of this section must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.~~

4. The trust agreement shall provide that:

a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

c. It is not subject to any conditions or qualifications outside of the trust agreement; and

d. It shall not contain references to any other agreements or documents except as provided for under ~~subdivision 9 subdivisions 11 and 12~~ of this subsection;

e. ~~At least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary; and~~

f. ~~The trustee shall be liable for its own negligence, willful misconduct or lack of good faith.~~

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

a. Receive assets and hold all assets in a safe place;

b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such

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# Regulations

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assets, without consent or signature from the grantor or any other person or entity;

c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

d. Notify the grantor and the beneficiary, within 10 days, of any deposits to or withdrawals from the trust account;

e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of such assets to such beneficiary; and

f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

~~8.~~ 9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commission), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

~~9. The reinsurance agreement entered into in conjunction with such a trust agreement may, but need not, contain provisions required by subdivision C 1 b of this section, so long as these required conditions are included in the trust agreement.~~

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both.

11. Notwithstanding other provisions of this chapter, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose,

the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102% of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in § 38.2-1316.1 of the Act apart from its general assets, in trust for such uses and purposes specified in subdivisions 11 a and b of this subsection as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this chapter, when a trust agreement is established to meet the requirements of 14VAC5-300-110 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. To pay or reimburse the ceding insurer for:

(1) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

(2) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure

the credit or reduction from liability for reinsurance taken by the ceding insurer; or

c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses and purposes specified in subdivisions 12 a and b of this subsection as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement shall stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Code of Virginia or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed 5.0% of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this subdivision shall be included in the reinsurance agreement.

B. When a ceding insurer seeks credit pursuant to subdivision 2 of § 38.2-1316.4 of the Act for reinsurance transactions secured by funds held in trust, the underlying trust agreement may contain the following provisions subject to all conditions set forth:

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or

deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest, and accept substitutes of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest such funds and to accept such substitutions which the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in subdivision C 1 b of this section.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

~~6. Notwithstanding other provisions of this chapter, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this chapter, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:~~

~~a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;~~

~~b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102% of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or~~

~~c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to such termination date, to withdraw amounts equal to such obligations and deposit such amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in this chapter apart from its general assets, in trust for such uses and purposes specified in subdivisions a and b~~

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# Regulations

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~~above as may remain executory after such withdrawal and for any period after such termination date.~~

C. Conditions applicable to reinsurance agreements entered into by a ceding insurer which takes credit pursuant to subdivision 2 of § 38.2-1316.4 of the Act for reinsurance transactions secured by funds held in trust.

1. The reinsurance agreement may contain provisions that:

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what such agreement is to cover;

~~b. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by § 38.2-1316.4 of the Code of Virginia or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary and, provided, further, that the amount of credit taken or reduction from liability allowed shall not, as a result of this subdivision, exceed the amount of credit or reduction from liability allowed a domestic insurer pursuant to Title 38.2. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then such trust agreement may contain the provisions required by this subdivision in lieu of including such provisions in the reinsurance agreement.~~

~~e. b.~~ Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments, or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate any such assets without consent or signature from the assuming insurer or any other entity;

~~f. c.~~ Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

e. d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitations any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on

the part of the ceding insurer or the assuming insurer, only for the following purposes:

(1) To pay or reimburse the ceding insurer for ~~the~~

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

~~(2) To reimburse the ceding insurer for the~~ (b) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

~~(3) To fund an account with the ceding insurer in an amount at least equal to the deduction for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement, which account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and~~

~~(4) To any~~ (c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer claims are due under the reinsurance agreement; or

(2) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement also may contain provisions that:

~~f. a.~~ Give the assuming insurer the right to seek approval (which shall not be unreasonably or arbitrarily withheld) from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer such assets to the assuming insurer, provided:

(1) The assuming insurer shall, at the time of such withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or

(2) After such withdrawal and transfer, the current fair market value of the trust account is no less than 102% of the required amount.

~~g. b.~~ Provide for: ~~(1) The the return of any amount withdrawn in excess of the actual amounts required for subdivisions C 1 e (1), (2), and (3), or in the case of subdivision C 1 e (4), any amounts that are subsequently determined not to be due and; (2) Interest subdivision C 1 d of this section, and for interest payments, at a rate not in excess of the prime rate of interest; on the such amounts held pursuant to subdivision C 1 e (3);~~



~~h. c.~~ Permit the award by any arbitration panel or court of competent jurisdiction of:

- (1) Interest at a rate different from that provided in subdivision ~~g (2) above~~, 2 b of this subsection;
- (2) Court or arbitration costs;<sub>i</sub>
- (3) Attorney's fees;<sub>i</sub> and
- (4) Any other reasonable expenses.

~~2. D.~~ With regard to financial reporting, a trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the ~~Commission~~ commission in compliance with the provisions of this chapter when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations, as defined in this chapter (~~14VAC5-300-10 et seq.~~), under the reinsurance agreement that the trust account was established to secure;<sub>i</sub>

~~3. E.~~ With regard to existing agreements and notwithstanding the effective date of this chapter [~~effective March 1, 1992~~], any trust agreement or underlying reinsurance agreement in existence prior to ~~January 1, 1992~~ July 1, 2012, will continue to be acceptable until ~~the first occurring anniversary or renewal date after December 31, 1994~~ January 1, 2013, at which time the agreements will have to be in full compliance with this chapter for the trust agreement to be acceptable;<sub>and</sub>

~~4. E.~~ The failure of any trust agreement to specifically identify the beneficiary as defined in 14VAC5-300-40 of this chapter shall not be construed to affect any actions or rights which the ~~Commission~~ commission may take or possess pursuant to the provisions of the laws of this Commonwealth.

**14VAC5-300-130. Letters of credit qualifying for § 38.2-1316.4 credit under 14VAC5-300-110.**

A. The letter of credit ~~must shall~~ be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in § 38.2-1316.1 of the Act. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subdivision H 1 of this section. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary,

then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). It cannot be conditioned on the delivery of any other documents or materials. It shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented.

~~B.~~ The letter of credit must be irrevocable. It must provide that it cannot be modified, except for an increase in face amount, or revoked without the consent of the beneficiary, ~~once the beneficiary is established.~~

~~C.~~ The letter of credit must be unconditional. It shall indicate specifically that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain preference to any other agreements, documents or entities, ~~except as provided in subdivision K 1 of this section.~~

~~D. B.~~ The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for such letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

~~E. C.~~ The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

~~F. D.~~ The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" ~~which automatically renews the letter of credit for a time certain should the issuer of the same fail to affirmatively signify its intention to non-renew upon expiry and which that~~ prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than 30 days notice prior to ~~expiry~~ expiration date for nonrenewal.

~~G. E.~~ The letter of credit shall state whether it is subject to and governed by the laws of this Commonwealth, the ceding insurer's state of domicile or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 500~~) Publication 600 (UCP 600) or International Standby Practices ISP98 of the International Chamber of Commerce, Publication 590, or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

~~H. F.~~ If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500), or any successor publication, then the letter of credit shall specifically address and ~~make provision~~ provide for an extension of time to draw against the letter of credit in the

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# Regulations

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event that one or more of the occurrences specified in Article 17 of Publication 500, or any successor publication, occur.

~~I. The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to the applicable definitions contained within § 38.2-1316.1 of the Act.~~

~~J. When a G. If the letter of credit, is issued by a financial institution not recognized by the Act and this chapter as a qualified United States financial institution authorized to issue letters of credit, is subsequently confirmed by other than a qualified United States financial institution, as described in subsection F A of this section, then the following additional requirements shall be met:~~

1. The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. The "evergreen clause" shall provide for ~~a period of no less than 30 days' days~~ notice prior to ~~expire~~ the expiration date for nonrenewal.

~~K. H. Reinsurance agreement provisions.~~

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other ~~provision~~ provisions in ~~such~~ the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(1) ~~To pay or~~ reimburse the ceding insurer for ~~the~~:

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(2) ~~To reimburse the ceding insurer for the~~ (b) The assuming insurer's share under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

(3) ~~To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and~~

~~(4) To pay any~~ (c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer claims are due under the reinsurance agreement.;

(2) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subdivision 1 b (1) of this subsection as may remain after withdrawal and for any period after the termination date.

c. All of the foregoing provisions of subdivision 1 of this subsection should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in subdivision 1 of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

a. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subdivision 1 b (3) of this subsection; ~~and/or or~~

b. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, ~~in the case of subdivision 1 b (4) of this subsection,~~ any amounts that are subsequently determined not to be due.

~~3. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then such reinsurance agreement may in lieu of subdivision 1 b of this subsection, require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.~~

~~L. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Commission unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement.~~

## 14VAC5-300-140. Other security.

The ~~Commission~~ commission may allow credit pursuant to subdivision 2 d of § 38.2-1316.4 of the Act for unencumbered funds withheld by the ceding insurer in the United States

subject to withdrawal solely by the ceding insurer and under its exclusive control.

**14VAC5-300-150. Reinsurance contract.**

[ A. ] Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of 14VAC5-300-60, 14VAC5-300-70, 14VAC5-300-80, 14VAC5-300-90, and 14VAC5-300-110 of this chapter 14VAC5-300-95, or 14VAC5-300-100 or otherwise in compliance with § 38.2-1316.2 of the Act after the adoption of this chapter (14VAC5-300-10 et seq.) unless the reinsurance agreement:

1. Includes a proper insolvency clauses pursuant to subdivisions A 1 through A 3 of § 38.2-1316.5 of the Act; and clause that stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company;
2. Includes a provision [ pursuant to ] subdivision A 4 of § 38.2-1316.5 of the Act [ § 38.2-1316.2 ] whereby the assuming insurer, if an unauthorized assuming insurer entering into a transaction with a domestic insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decisions of such court or panel; and
3. Includes a proper reinsurance intermediary clause, if applicable, that stipulates that the credit risk for the intermediary is carried by the assuming insurer.

[ B. If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this Commonwealth, the credit permitted pursuant to § 38.2-1316.2 A 3, A 4, and E shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and
- b. To designate the commission or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.
2. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

C. If the assuming insurer does not meet the requirements of § 38.2-1316.2 A 1, 2, or 3, the credit permitted by § 38.2-1316.2 A 4 or B shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by § 38.2-1316.2 A 4, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.
2. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.
3. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.
4. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision. ]

**14VAC5-300-160. Contracts affected.**

All new and renewal reinsurance transactions entered into after December 31, ~~1994~~ 2012, shall conform to the requirements of the Act and this chapter if credit is to be given to the ceding insurer for such reinsurance. Unless otherwise provided in this chapter, credits for cessions under reinsurance agreements in force on July 1, 2012, or commenced within six months thereafter, shall be governed by the requirements for such credits in effect on June 30, 2012.

**14VAC5-300-170. Severability.**

If any provision in this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of the provision to other persons or circumstances shall not be affected thereby.

**NOTICE:** The following forms used in administering the regulation were 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 to access a form. The forms are also available from the agency contact or

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# Regulations

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may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (14VAC5-300)

[Certificate of Assuming Insurer - Year Ended December 31, 2012, R05\(3/12\) \(eff. 01/13\).](#)

[Certificate of Certified Reinsurer - Year Ended December 31, 2012, R15\(03/12\) \(eff. 01/13\).](#)

[Schedule S, Part 1 - Part 6, 1994-2011 National Association of Insurance Commissioners \(eff. 01/13\).](#)

[Schedule F, Part 1 - Part 8, 1994-2011 National Association of Insurance Commissioners \(eff. 01/13\).](#)

[Form CR-F - Part 1 - Part 2, 2011 National Association of Insurance Commissioners \(eff. 01/13\).](#)

[Form CR-S - Part 1 - Part 3, 2011 National Association of Insurance Commissioners \(eff. 01/13\).](#)

DOCUMENTS INCORPORATED BY REFERENCE (14VAC5-300-9999)

[NAIC Policy Statement on Financial Regulation Standards, 2012, National Association of Insurance Commissioners.](#)

[NAIC Annual Statement Instructions, 2011 Life Annual Statement Instructions, September 15, 2011, National Association of Insurance Commissioners and the Center for Insurance Policy and Research.](#)

[NAIC Annual Statement Instructions, 2011 Property/Casualty Annual Statement Instructions, September 15, 2011, National Association of Insurance Commissioners and the Center for Insurance Policy and Research.](#)

[NAIC Accounting Practices & Procedures Manual, Volumes I, II, III, March 2011, National Association of Insurance Commissioners.](#)

[ICC Uniform Customs and Practice for Documentary Credits \(UCP 500\), 1993, International Chamber of Commerce.](#)

[ICC Uniform Customs and Practice for Documentary Credits \(UCP 600\), 2007, International Chamber of Commerce.](#)

[International Standby Practices ISP98, 1999, The Institute of International Banking Law and Practice, Inc.](#)

[Purposes and Procedures Manual of the NAIC Securities Valuation Office - Effective for Statements Ending December 31, 2011, Volume/Issue 11/01, 2011, National Association of Insurance Commissioners.](#)

VA.R. Doc. No. R12-3115; Filed July 9, 2012, 2:37 p.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF LONG-TERM CARE ADMINISTRATORS

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Long-Term Care Administrators is claiming an exemption from 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 where no agency discretion is involved. The Board of Long-Term Care Administrators will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-330).**

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

**Effective Date:** August 29, 2012.

**Agency Contact:** Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email ltc@dhp.virginia.gov.

**Summary:**

*The amendment corrects the name of the Department of Behavioral Health and Developmental Services.*

**18VAC95-20-330. Training facilities.**

Training in an A.I.T. program shall be conducted only in:

1. A nursing home licensed by the Virginia Board of Health or by a similar licensing body in another jurisdiction;
2. An institution operated by the Virginia ~~State Mental Health, Mental Retardation and Substance Abuse Services Board~~ Department of Behavioral Health and Development Services in which long-term care is provided;
3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or
4. A certified nursing home unit that is located in and operated by a licensed hospital as defined in § 32.1-123 of the Code of Virginia, a state-operated hospital, or a hospital licensed in another jurisdiction.

VA.R. Doc. No. R12-3290; Filed July 2, 2012, 11:04 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 Rules and Regulations (amending 19VAC30-70-1, 19VAC30-70-3 through 19VAC30-70-10, 19VAC30-70-30, 19VAC30-70-40 through 19VAC30-70-230, 19VAC30-70-260, 19VAC30-70-290, 19VAC30-70-310, 19VAC30-70-330, 19VAC30-70-340, 19VAC30-70-350, 19VAC30-70-360, 19VAC30-70-390, 19VAC30-70-430, 19VAC30-70-450, 19VAC30-70-460, 19VAC30-70-490, 19VAC30-70-500, 19VAC30-70-510, 19VAC30-70-530, 19VAC30-70-550, 19VAC30-70-570, 19VAC30-70-580, 19VAC30-70-660; adding 19VAC30-70-9.1, 19VAC30-70-11, 19VAC30-70-25, 19VAC30-70-31, 19VAC30-70-32, 19VAC30-70-690).

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

**Effective Date:** August 1, 2012.

**Agency Contact:** Lt. Colonel Robert Kemmler, Regulatory Coordinator, Department of State Police, Bureau of Administrative and Support Services, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-4606, FAX (804) 674-2234, or email robert.kemmler@vsp.virginia.gov.

#### **Summary:**

*This action updates the Motor Vehicle Safety Inspection Rules and Regulations by making technical corrections and other revisions to comply with changes in Virginia law since 2008.*

#### Part I

#### **Guidelines for the Administration of Virginia's Annual Official Motor Vehicle Inspection Program**

#### **19VAC30-70-1. Purpose and authority.**

The Virginia Annual Official Motor Vehicle Inspection Program was developed and adopted to promote highway safety. Its aim is to assure that all Virginia registered vehicles are mechanically safe to operate over the highways of the Commonwealth.

The rules and regulations governing the Annual Official Motor Vehicle Inspection Program are contained in the Official Annual Motor Vehicle Safety Inspection Manual. These rules and regulations are promulgated under the authority of Chapter 10 (§ 46.2-1000 et seq.) of Title 46.2 of the Code of Virginia. All official inspection stations shall comply with these rules and regulations, issuing approval certificates only to those vehicles which the inspections shall

determine to be in compliance with those rules and regulations.

These ~~guidelines~~ rules and regulations are intended to ensure a uniform system of corrective action for those who violate the rules and regulations of the Annual Official Motor Vehicle Inspection Program.

The Official Annual Motor Vehicle Safety Inspection Manual covers administrative procedure as well as numerous vehicular safety items of varying importance. It is, therefore, necessary that the various sections of the manual be divided into categories of seriousness. This will provide a uniform system of corrective action for the certified inspector mechanics and the inspection stations.

#### **19VAC30-70-3. Class I offenses.**

Class I offenses are unacceptable work performances less serious in nature, but which require correction in order to maintain an efficient and effective ~~annual motor vehicle inspection program~~ Official Motor Vehicle Inspection Program. A violation of any paragraph of the following sections of the Official Annual Motor Vehicle Safety Inspection Manual and rules and agreements not covered in the Annual Official Motor Vehicle Safety Inspection Manual or those disseminated by other means shall constitute a Class I offense, unless designated otherwise:

19VAC30-70-10 A through D

19VAC30-70-10 F through I

19VAC30-70-10 K through O

19VAC30-70-10 U

19VAC30-70-20 in its entirety

19VAC30-70-30 in its entirety

19VAC30-70-40 in its entirety

19VAC30-70-50 in its entirety

19VAC30-70-60 in its entirety

19VAC30-70-70 in its entirety

19VAC30-70-80 B 3

19VAC30-70-160 in its entirety (except subdivisions I 10 and 11 g (2))

19VAC30-70-170 in its entirety

19VAC30-70-200 in its entirety

19VAC30-70-290 in its entirety

19VAC30-70-310 in its entirety

19VAC30-70-330 in its entirety

19VAC30-70-360 D 4 e and f

19VAC30-70-410 in its entirety

19VAC30-70-440 B

19VAC30-70-530 in its entirety (except subdivisions H 10 i and 11 g (2))

19VAC30-70-540 in its entirety

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# Regulations

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19VAC30-70-570 in its entirety

19VAC30-70-660 in its entirety

Disciplinary action for Class I offenses shall be:

1st offense - Oral reprimand - Recorded on ~~S.P. 164~~ Form SP-164.

2nd offense - Oral reprimand by a supervisor - Recorded on ~~S.P. 164~~ Form SP-164.

3rd offense - Written reprimand from the ~~Safety Officer~~ safety officer or his designee.

4th offense - Suspension of not less than 15 nor more than 30 days.

Offenses shall be cumulative in nature and shall remain active for 24 months from date of offense.

## **19VAC30-70-4. Class II offenses.**

Class II offenses shall be violations of any section of the ~~Annual~~ Official Motor Vehicle Safety Inspection Manual considered very serious but the consequence of such violation or omission is not likely to be an imminent cause or contributing factor to a traffic crash or other vehicle related injury. A violation of the following sections of the ~~Annual~~ Official Motor Vehicle Safety Inspection Manual shall constitute a Class II offense unless designated otherwise:

19VAC30-70-150 in its entirety

19VAC30-70-180 in its entirety

19VAC30-70-210 in its entirety

19VAC30-70-230 in its entirety

19VAC30-70-240 in its entirety

19VAC30-70-250 in its entirety

19VAC30-70-260 in its entirety

19VAC30-70-270 in its entirety

19VAC30-70-280 in its entirety

19VAC30-70-300 in its entirety

19VAC30-70-320 in its entirety

19VAC30-70-360 A 7 and C 1 through C 13

19VAC30-70-380 in its entirety

19VAC30-70-390 in its entirety

19VAC30-70-420 in its entirety

19VAC30-70-520 in its entirety

19VAC30-70-550 in its entirety

19VAC30-70-580 in its entirety

19VAC30-70-600 in its entirety

19VAC30-70-610 in its entirety

19VAC30-70-620 in its entirety

19VAC30-70-630 in its entirety

19VAC30-70-640 in its entirety

19VAC30-70-650 in its entirety

19VAC30-70-670 in its entirety

19VAC30-70-680 in its entirety

Disciplinary action for a Class II offense shall be:

1st Offense - Oral reprimand - Recorded on ~~S.P. 164~~ Form SP-164 and confirmed by a supervisor.

2nd Offense - Written reprimand from the ~~Safety Officer~~ safety officer or his designee.

3rd Offense - Suspension of not less than 30 nor more than 60 days.

Offenses are cumulative in nature and shall remain active for a period of 24 months from date of offense.

A Class II offense in combination with three Class I offenses shall be grounds for no less than a 30-day nor more than a 60-day suspension.

## **19VAC30-70-5. Class III offenses.**

Class III offenses shall be violations of those sections of the ~~Annual~~ Official Motor Vehicle Safety Inspection Manual considered most critical from a safety viewpoint. They would consist of the omission of checking or improper approval of an item so critical to the safe operation of a motor vehicle as to have the potential of being the imminent cause or factor of a motor vehicle crash. A violation of the following sections of the ~~Annual~~ Official Motor Vehicle Safety Inspection Manual shall constitute a Class III offense unless designated otherwise:

~~19VAC30-70-10 J~~

19VAC30-70-10 J, P, P1, P2

19VAC30-70-11 in its entirety

19VAC30-70-80 in its entirety (except subdivision B 3)

19VAC30-70-90 in its entirety

19VAC30-70-100 in its entirety

19VAC30-70-110 in its entirety

19VAC30-70-120 in its entirety

19VAC30-70-130 in its entirety

19VAC30-70-140 in its entirety

19VAC30-70-160 I 10 h and 11 f

19VAC30-70-160 I 10 g and 11 g (2)

19VAC30-70-190 in its entirety

19VAC30-70-220 in its entirety

19VAC30-70-340 in its entirety

19VAC30-70-350 in its entirety

19VAC30-70-360 A and B

19VAC30-70-360 D 15 through D 22

19VAC30-70-370 in its entirety

19VAC30-70-400 in its entirety

19VAC30-70-440 in its entirety (except subdivision B 2)

19VAC30-70-450 in its entirety

19VAC30-70-460 in its entirety

- 19VAC30-70-470 in its entirety
- 19VAC30-70-480 in its entirety
- 19VAC30-70-490 in its entirety
- 19VAC30-70-500 in its entirety
- 19VAC30-70-510 in its entirety
- 19VAC30-70-530 H 10 i and 11 g (2)
- 19VAC30-70-560 in its entirety
- 19VAC30-70-590 in its entirety
- 19VAC30-70-690 in its entirety

Disciplinary action for a Class III offense shall be:

- 1st offense - Written reprimand from the ~~Safety Officer~~ safety officer or his designee.
- 2nd offense - Suspension for not less than 45 nor more than 90 days.

Offenses are cumulative in nature and will remain active for a period of 24 months from date of offense.

A Class III offense in combination with two Class II offenses or three Class I offenses shall be grounds for no less than a 60-day nor more than a 90-day suspension.

**19VAC30-70-6. Class IV offenses.**

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. 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 and/or drugs by an employee associated with the Annual Motor Vehicle Inspection Program.
3. Loss of inspection stickers through neglect.
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 shall be grounds for an immediate suspension upon final court disposition. The conviction for such a criminal offense or a civil judgment or bankruptcy may result in a revocation of the station appointment.

9. The use of profanity or verbal abuse directed at customers presenting their vehicles for inspection by inspectors, managers or business owners.
10. Illegal use of inspection supplies such as stealing, selling, mailing or giving away, shall be grounds for revocation.
11. Nonpayment of inspection fees.
12. Conduct displayed by station owners and/or ~~state~~ safety inspectors that may be rude or discourteous, or the use of profanity and/or verbal abuse directed at or towards Safety Division Personnel, may be grounds for revocation.
13. Failure of any person connected with the inspection program to notify their supervising trooper or Safety Division Area Office 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.

Disciplinary action for a Class IV offense shall be immediate suspension or revocation. A suspension shall not be less than 90 days nor more than six months. A revocation shall not be less than one year nor more than three years. 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 shall not be less than six months nor more than one year.

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.

In cases concerning nonpayment of fees when the inspection station has been given 15 days to reply to their 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.

A Class IV offense in combination with three Class I offenses, two Class II offenses, or one Class III offense shall be grounds for no less than a 90-day nor more than a six-month suspension.

**19VAC30-70-7. General information.**

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

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# Regulations

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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.

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. Suspended ~~safety~~ inspectors shall contact the nearest ~~safety office~~ Safety Division Area Office or supervising trooper to request reinstatement.

Inspection stations who 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.

## **19VAC30-70-8. Definitions.**

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

"MVIP" means the Motor Vehicle Inspection Program.

"Official Annual Motor Vehicle Safety Inspection Manual" means Chapter 70 (19VAC30-70-1 et seq.) of 19VAC30 this chapter (19VAC30-70).

"Official Safety Inspection Station or Official Inspection Station" means a bonafide garage or other facility that performs motor vehicle, motorcycle, or trailer repairs as a routine business, has met all criteria for appointment to perform safety inspections pursuant to Virginia's Annual Motor Vehicle Inspection Program, and has been issued a Certificate of Appointment by the Department of State Police.

~~"Suspension" means that the privilege or appointment has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.~~

"Revocation" means that the privilege or appointment is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation. A period of revocation ~~is~~ is from one to three years depending on the severity of the case.

"Safety inspector" or "inspector" means an individual who has successfully completed all the requirements for

appointment and is certified by the Department of State Police to perform motor vehicle safety inspections pursuant to Virginia's Annual Motor Vehicle Inspection Program.

"Suspension" means that the privilege or appointment has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Test site" means any location designated for Class A, B, and C certifications and all recertifications designated by the Department of State Police. A list of test sites is maintained in the MVIP system and at each Safety Division Area Office.

## **19VAC30-70-9. Examinations for inspector's license.**

A. ~~Effective March 31, 2003, the~~ The Department of State Police ~~went back to administering~~ 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 office~~ Safety Division Area Office to obtain the following:

- a. Mechanics Certification Application (~~SP-170B~~), Form SP-170B;
- b. Criminal History Record Request (~~SP-167~~), 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 ~~person~~ applicant shall complete ~~the SP-170B (i) Form SP-170B~~ in its entirety and have it notarized on the back; ~~complete Section 1A of SP-167 (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 ~~and~~ references, two mechanical references ~~and~~ 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 ~~for 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. ~~The trooper will administer the test.~~ 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 ~~SP-170B form Form SP-170B~~ the word "Passed" and the date. The trooper will ~~initial~~ 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 (~~brakes, suspensions, glass, lights and general~~) containing: general information, brakes, suspension, lights, and glass. Each section will contain 20 questions ~~each~~. 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 ~~I~~ on the ~~SP-170B form Form SP-170B~~ with the words "~~Disqualified — Failed Test.~~" 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, ~~destroy them~~ forward them to Safety Division Headquarters, Mechanics File Section. The applicant may contact his assigned Safety Division trooper or the local ~~safety office~~ 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 ~~process~~ 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's~~ 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 ~~this~~ their upcoming recertification will contain the updated information. All ~~State Police safety area offices~~ 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 ~~area safety office~~ Safety Division Area Office closest to him. The office numbers are:

Richmond 804-743-2217

Culpeper 540-829-7414

~~Lynchburg 434-582-5144~~ Amherst 434-946-7676

Wytheville 276-228-6220

Suffolk 757-925-2432

Salem 540-387-5437

Fairfax ~~703-323-4549~~ 703-803-2622

D. Reinstatement of safety ~~inspector's~~ 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) Form SP-170B is required for reinstatement.

2. If the inspector is suspended for less than six months, the safety inspector's license will be held at the local ~~area office~~ 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, ~~whereas a~~ 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 outlined 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 ~~their~~ his assigned Safety Division trooper or the local ~~safety office in their area~~ Safety Division Area Office by March 15 of each year. The written examination will be scheduled for

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# Regulations

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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 Center Centers will forward sufficient ~~SP-170B forms~~ application Form SP-170B for each student to complete prior to the testing date. A Criminal History Record Request, ~~Form SP-167,~~ (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 ~~SP-170B form~~ Form SP-170B the name of the Vo-Tech school, ~~area where the examination was given, and the trooper's name who administered the examination 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. ~~The trooper will administer the written examination.~~ 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 ~~send end~~ of Section 4 I on the ~~SP-170B form~~ Form SP-170B the word "Passed" and the date. The trooper will ~~initial sign~~ the test and forward it to ~~the~~ 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 4 I on the ~~SP-170B form~~ Form SP-170B with the words "~~Disqualified Failed Test.~~" 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 ~~SP-170B form~~ 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 June 15 of that 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. Students who do not pass the initial examination should visit a testing site in their area to take a second written examination.

d. For those students who pass the second written examination, the Safety Division trooper will forward the student's ~~form~~ 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's~~ inspector license by the Safety Division trooper.

e. 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, brakes, suspensions, glass and lights~~) containing: general information, brakes, suspension, lights, and glass. Each section will contain 20 questions each. 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 ~~inspectors~~ inspector license by the Safety Division trooper. The Safety Division trooper will then forward the completed ~~SP-170B form~~ temporary inspector license to the Safety Division ~~and a permanent license will then be mailed to the student, provided he is at least 18 years of age~~ 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 after June 15 of that year.

b. The Vo-Tech instructor will be required to contact the Safety Division trooper prior to June 15 of that 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.

## **19VAC30-70-9.1. 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 which 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 form or forms are to be completed and returned to the Department of State Police for processing.

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 or a change in ownership which does not affect the station's ability to perform safety inspections.

(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.

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

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# Regulations

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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 their 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 and/or inspection service. 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 a through 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 or forms will be forwarded to the applicant.

2. The applicant will complete the application form or forms 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:

- (1) A review of the existing station file.
- (2) 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.
- (3) 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.
- (4) 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.

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.

B. At least one full time safety inspector 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.

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,

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# Regulations

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litter, used parts and junk vehicles. Vehicles properly contained within fenced storage areas shall be deemed to comply with this requirement.

D. Inspections shall be performed on a first-come, first-served basis. Motorists shall not be required to make an appointment to obtain an inspection, except that appointments required by ~~paragraph 12 of the Governor's Proclamation which appears at the end of this chapter, § 46.2-1158.01 of the Code of Virginia~~ shall be made. Businesses that take in motorists' vehicles for inspection at the beginning of the work day shall not be required to stop the work already taken in to provide an inspection for a drive-in motorist, provided inspections are actually being performed at the time and will continue through the day.

~~Effective October 15, 2001, the safety officer initiated a pilot program whereas if the station's existing physical plant meets certain requirements, then the A station may apply to accept inquire about accepting safety inspections by appointment. If the requirements are met, then the official inspection station may, in addition to having one lane for the first-come, first-served customers, also have a second inspection lane designated for customers who have made appointments for a designated time slot. An additional certified safety inspector shall be available to perform those inspections that are made by an appointment. If interested, businesses stations should first contact their supervising trooper for specific requirements and guidelines.~~

E. Safety inspectors, managers who supervise inspection activities, and business owners, through participation in the ~~inspection program~~ 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 ~~of the Guidelines for Administration of Virginia's Annual Motor Vehicle Inspection Program.~~

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 service counter/lounge/waiting~~ 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 ~~only~~ their company-owned, ~~or leased or~~ 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 ~~service counter/lounge/waiting~~ 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 ~~need not comply with this section~~ shall not display an outside poster.

I. Each official inspection station shall display a list with the name(s) and license expiration date of all employees licensed to inspect at that station, adjacent to the ~~appointment certificate, where it can be observed by a person submitting a vehicle for inspection~~ certificate of appointment. The ~~official inspection manual~~ Official Motor Vehicle Safety Inspection Manual will be kept at or near the point of inspection for ready reference.

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 with the exception of inserts.

1. Stations must maintain a sufficient supply of approval stickers, ~~T/M trailer/motorcycle~~ trailer/motorcycle decals, rejection stickers and inserts. When reordering supplies, station owners/managers shall request sufficient supplies to sustain their business for at least six months. However, ~~we do realize it is realized~~ it is realized that a few 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 ~~over order. Each order an excessive amount of supplies: each~~ book of Approvals approval stickers and Trailer/Motorcycle trailer/motorcycle decals contains 25 stickers/decals, and the Rejections contain rejection book contains 50 stickers. Monthly, the monthly inserts are packaged in strips of 50 each, and ~~T/M's trailer/motorcycle decals~~ trailer/motorcycle decals are five per strip. In December of each year, a supply of yearly inserts will be shipped to each station based on their previous year's usage. In November, each station shall check its stock of monthly 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.

2. Inspection stations that exhaust their supply of approval stickers, rejection stickers, or ~~T/M~~ trailer/motorcycle decals, shall immediately stop performing new inspections and contact their supervising trooper or the nearest Safety Division ~~office~~ Area Office.

M. All losses of stickers must be reported ~~orally at once~~ immediately to the nearest ~~State Police area safety office~~ Safety Division Area Office or supervising inspection trooper.

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, bulletins, other regulations and lists of approved equipment must be available at all times for reference. Revisions to the inspection manual must be inserted in the manual at the proper location promptly after being received by the inspection station. Bulletins of temporary interest and pages of bulletins containing the synopsis of manual revisions will be retained in the front of each station's inspection manual for 24 months. Each safety inspector shall review the material contained in each inspection bulletin and manual revision within 15 days of its receipt. The safety inspector shall certify that the revisions have been reviewed by signing his name and placing the date reviewed by the signature on the bottom or reverse side of the bulletin or manual revision cover sheet. 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 inserted in a plastic page protector and inserted as the last page of the official inspection manual at each official inspection station. The name of the station and the date will be inserted in the top right corner.

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, ~~operators~~ managers, and certified safety inspectors shall comply with

the Virginia inspection laws and the inspection rules and regulations. Reports of violations will be investigated and, if found to be valid, may result in the suspension of the station, suspension of the ~~mechanic~~ 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 station appointment by the ~~Superintendent~~ 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 shall be grounds for an immediate suspension and the conviction for such an offense may result in a revocation of the ~~station~~ 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~~ 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 a ~~mechanic~~ 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(s)~~ 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" ruler, 25' 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 that have not done so are encouraged to upgrade to one of the following headlight aiming devices when their budget allows are required to have one of the following headlight aiming devices effective January 1, 2013: the Hopkins Vision1, Hopkins Vision 100, American Aimers Vision 100, American Aimers Vision 2 Pro, or the Symtech (former L.E.T.) HBA-5, PLA-11, and PLA-12.~~

~~V. The following checklist has been designed to help with the monthly submission of inspection receipts. While its use is not required, its use is encouraged for a more orderly and accurate submission of inspection receipts.~~

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# Regulations

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MONTHLY INSPECTION RECEIPT \_\_\_\_\_  
SUBMISSION FOR (Month/Year)

Processing Checklist:

- \_\_\_\_\_ White copies have been removed from books (yellow copies remain in the books and are on file at the station).
- \_\_\_\_\_ Receipts are in numerical order.
- \_\_\_\_\_ Either rubber bands or paper clips are used to secure receipts during mailing.
- \_\_\_\_\_ Voided receipts have matching sticker and pink receipt attached.
- \_\_\_\_\_ Receipts are postmarked no later than the fifth of the month.

Accountability Checklist:

- \_\_\_\_\_ All receipts are completely filled out, including date, station number, tag number, complete ID#, odometer reading, etc.
- \_\_\_\_\_ All receipts are legible.
- \_\_\_\_\_ All receipts are signed by the inspector.
- \_\_\_\_\_ Repair costs are included in inspection related charges. If no charge, no charge is indicated by "NA."
- \_\_\_\_\_ Inspection charges for motorcycles are no more than \$12.
- \_\_\_\_\_ All approval and rejection receipts indicate which tires were pulled on vehicles to check brakes.
- \_\_\_\_\_ Receipts are written in ink; no pencil or white-out on receipts.
- \_\_\_\_\_ A block is checked for every segment of the vehicle that has actually been inspected.

Receipts processed

by \_\_\_\_\_

(Name)

(Date)

## 19VAC30-70-11. Automated Motor Vehicle Inspection Program (MVIP).

A. Effective March 1, 2011, the automated Motor Vehicle Inspection Program (MVIP) was implemented. The MVIP system will enable the Safety Division and inspection stations to more efficiently record and retain data, thereby enhancing the overall operation of the program.

B. Passwords or personal identification numbers (PINs) shall only be used by the person to whom they were assigned.

C. Automated stations shall order all supplies via the MVIP system.

D. Once a certified safety inspector completes an inspection, he will be required to enter the inspection information via the MVIP system.

E. All stations and inspectors are required to verify the accuracy of the information entered through the MVIP system to include:

1. One copy of the official safety inspection approval/rejection receipt shall be printed on 8-1/2 by 11 inch white paper and given to the customer or placed in the vehicle. The size of the print on the receipt shall not be reduced.

2. The printed official inspection receipt number shall correspond with the issued decal.

3. The complete vehicle identification number (VIN) shall be verified before submitting the inspection through the MVIP system and printing the official inspection receipt.

F. When a station has a voided decal and entered it as a void, the receipt shall be printed, attached to the decal, and retained until the supervising trooper's next visit. The supervising trooper will be responsible for destroying the voided sticker and a Form SP-164 will not be required.

G. Before a completed book of receipts is destroyed, station management shall ensure that all decals are accounted for and all information has been entered correctly into the MVIP system.

## **19VAC30-70-20. General inspection requirements.**

A. Each Official Inspection Station must inspect every vehicle presented for inspection as prescribed by Department regulations, either ~~rejecting or approving~~ 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 inspection receipt.

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

3. When a vehicle is presented for inspection the entire approval sticker, if any, on the vehicle must be removed before any inspection is begun (except a rejection sticker). After removing the inspection sticker, the safety inspector who is to perform the inspection must drive the vehicle into ~~the~~ 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 ~~Brake Sections~~ the Service Brake Section of the ~~inspection manual~~ 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 inspection and shall include a check of all applicable items in ~~this~~ 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 herein used shall not include repairs or adjustments. Repairs or adjustments necessary to bring the vehicle in conformity with these regulations 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 these regulations 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.

**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;

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# Regulations

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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 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 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;

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.**

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:

1. Be at least 18 years of age; and

2. Have a minimum of one year's practical experience as an automotive mechanic, or have satisfactorily completed a training program in the field of automotive mechanics approved by the Superintendent of State Police.

A person who has a minimum of one year's practical experience in repairing motorcycles may be certified to inspect motorcycles only and a person who has one year's practical experience in repairing trailers may be certified to inspect trailers only.

C. All mechanics 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 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 office 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 ~~postal letter, e-mail or telephone to~~ 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)~~ attach the old Inspector license to the bottom of the notification form, (iii) make a copy of the license and form, ~~and~~ (iv) (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 (i) and (ii) ~~and~~ ~~(iv)~~ as outlined above set forth in this section. 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.**

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.

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## Regulations

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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. In the event the student is under the age of 18 years, he will be issued a condition letter of appointment as a certified safety inspector. Upon his 18th birthday, providing he still meets all of the requirements, he will be 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/her 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.**

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. 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 and/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.

B. 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 may be made for each inspection performed on any other vehicle except for the inspection of a motorcycle to include recreational motor homes. A charge of \$12 may be charged for each motorcycle inspection. The maximum inspection fees effective July 1, 2006, 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.

\$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 May 15 of every year.

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 May 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

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# Regulations

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the Department of State Police. The letter will include the following notice: "Do Not Send The Processing Fee To The P.O. Box Or Include With The Monthly Inspection Receipts. All Fees Are To Be Sent To The Safety Division Street Address."

4. The station will have 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 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 may be made for each inspection performed on any other vehicle except for the inspection of a motorcycle to include recreational motor homes and trailers. A charge of \$12 may be ~~charged~~ made for each motorcycle inspection.

NOTE: The truck inspection fee does not pertain to any trailer ~~nor does it affect the \$1.00 reinspection fee.~~

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.

F. ~~The maximum inspection fees effective July 1, 2006, 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.~~

~~\$16 for each inspection of any other vehicle, including trailers and recreation vehicles.~~

~~1. Beginning July 1, 2006, inspection fees will result in inspection stations retaining an additional \$.50 and forwarding \$.50 to the Department of State Police to support the department's costs in administering the motor~~

~~vehicle inspection program. Collection of these fees will begin on May 15 of every year.~~

~~2. Effective January 1, 2006, \$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 May 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, Richmond, 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 Or Include With The Monthly Inspection Receipts. All Fees Are To Be Sent To The Safety Division Street Address."~~

~~4. The station will have 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 fee will be assessed the station. Also, under the Administrative Rules and Regulations, 19VAC30-70-5, a returned check will be a Class III offense and administrative actions may be held against the record of the station. Once the station has been contacted by the Virginia 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 and/or legal sanctions may be taken against the station and, in addition, any requests for supplies will not be honored until the dispute has been settled.~~

## **19VAC30-70-50. Approval stickers and decals.**

A. If the vehicle meets all inspection requirements, the inspection sticker receipt shall be legibly filled out in its entirety with a black ball point pen in its entirety and signed by the authorized mechanic certified safety inspector making the inspection. Automated MVIP stations are required to have the certified safety inspector performing the inspection enter the receipt information via the MVIP system. The inspection fee (if no charge then indicate N/A), the cost of the repairs relating to the inspection and the complete vehicle identification number (VIN), tag number or car dealer name if a dealer tag is attached, mileage, year, make, and model must be filled out on the receipt. A circle to indicate which wheels were pulled to check for the brakes, and an individual mark shall be made in each equipment block of the approval receipt that was pertinent to it being issued shall be made the inspection (straight or zig-zag lines are not acceptable), are also to be written on the receipt.

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 VIN should be entered using 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 February annual inspection stickers for trailer and motorcycle decals (#2) due to expire at midnight, February 28 automatically will be valid through midnight February 29 each leap year.

C. The numeral decal indicating the month of expiration shall be inserted in the box identified as month and the numeral decal indicating the year of expiration shall be inserted in the box identified as year of the approval sticker and the ~~trailer/cycle~~ trailer or motorcycle decal. Extreme care should be used by inspectors in applying these inserts. On all windshields, except school buses, the sticker is to be placed at the bottom of the windshield so that the inside or left edge of the sticker is one inch to the right of the vertical center of the windshield when looking through the windshield from inside the vehicle. (If the vehicle is normally operated from the right side, the sticker must be placed one inch to the left of the vertical center of the windshield.)

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.

The approval sticker on official yellow school buses is to be placed at the bottom and in the right corner of the windshield when looking through the windshield from inside the vehicle.

EXCEPTIONS: The approval sticker shall be placed one inch to the right of the vertical center of the windshield when looking through the windshield from the inside on all new flat-face cowl yellow school buses. 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 inside left edge of the sticker shall be one inch to the right of the vertical center when looking through the windshield from the inside.

Stickers or decals used by counties, cities and towns in lieu of license plates affixed adjacent to the old approval sticker and which are affixed in the location where the new approval sticker is required to be placed will not be removed. In these cases, the approval sticker will be placed as close to one inch to the right of the vertical center of the windshield as it can be placed without removing or overlapping the county, city or town decal.

D. The ~~Code of Virginia statutes require~~ 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 decal issued to a motorcycle shall be affixed to the left ~~front~~ side of the cycle where it will be most visible after mounting. The decal 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 decal.

F. Trailer decals 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 trailers must display a trailer decal on that particular vehicle. These decals are to be placed on the left side of the trailer near the front corner. The decal 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 decal may be glued to it. The container must be permanently mounted in such a manner that the decal must be destroyed to remove it.

H. In all other cases involving unusually designed trailers such as pole trailers, the ~~inspecting mechanic~~ safety inspector is to exercise his own good judgment in placing the decal at a point where it will be as prominent as possible and visible for examination from the left side.

I. ~~Effective January 1, 2006, motorcycles will~~ Motorcycles have a separate decal that ~~will be~~ is orange and issued with the prefix M. The current trailer/motorcycle decal will continue to be utilized for trailers only until depletion. Decals for trailers will eventually have the prefix T and will remain blue. The trailer/motorcycle receipts are completed in the same manner as other inspection receipts.

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# Regulations

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J. Appointed stations will keep sufficient inspection supplies on hand to meet their needs. Requests for additional supplies may be made to the Safety Division by telephone, in writing or via e-mail. Automated stations shall order all supplies via the MVIP system. Requests for supplies that are to be picked up at the Safety Division ~~headquarters~~ Headquarters must be made at least 24 hours prior to pick up. If email is used, ~~then~~ the subject line should ~~be~~ include the station number and station name. If written request is preferred or if there is a need to return inspection receipts to the Safety Division via ~~United Parcel States Postal~~ Service, then it shall be addressed to: Safety Division, Department of State Police, P.O. Box 85607, Richmond, VA 23285-5607.

1. Do not make requests for stickers on inventory forms or slips of paper enclosed with returned supplies.

2. 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 or decal 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 ~~the~~ 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, ~~Department of State Police and~~. New replacement supplies will be furnished issued to the station. Expired stickers will be picked up by the station's supervising trooper.

L. The white receipts for all approval stickers including trailer/motorcycle stickers and pink copies for rejection stickers will be removed from the sticker books and placed in numerical order for submission to the Safety Division by the fifth of the month following the month of inspection. (Staples or tape are not to be used to secure these receipts.) All voided approval/rejection stickers and decals, along with the white and pink receipts, shall be marked void and returned to the Safety Division. The yellow receipt shall also be marked void and retained in the book.

M. ~~The pink receipt copies of for the approval stickers and decals sticker, to include MVIP system approval and rejection printed copies,~~ shall be given to the owner or operator of the vehicle.

N. All yellow receipt copies of approval stickers and decals will be retained in the books and shall be kept on file at the station for at least 24 months. 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 ~~office~~ 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 ~~pink~~ 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 ~~pink~~ 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 ~~staple the original pink inspection receipt to the new white receipt. At the end of each week, the Safety Division trooper will forward all inspection receipts for replacement stickers issued by him to the Safety Division. The yellow receipts will be submitted to the area office and maintained on file for 24 months~~ enter the replacement information into the MVIP system.

P. New vehicle safety inspections.

1. Section ~~46.2-1157~~ 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 state safety inspector.

2. With the addition of other personnel using Department of State Police inspection supplies, a system ~~should~~ shall be developed at each inspection station to afford accountability of all supplies. The system ~~should~~ shall include proper safeguards to prevent the loss of supplies through carelessness, neglect, theft, or unauthorized use.

3. Inspection stations ~~should~~ shall not mix annual state inspections with predelivery inspections (PDI) in the same book of inspection stickers.

4. All employees ~~should~~ shall be reminded that anyone who performs inspections, whether it be for the annual inspection or the PDI inspection, ~~are~~ 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 ~~should~~ shall be completed as usual with the following exceptions: On the "inspector" line, the initials "PDI" (for predelivery inspection) ~~before the inspector's name should~~ and the printed employee's name performing the inspection shall be entered. On the "inspector's license number" line, the letters "N/A" ~~should~~ shall be entered. In the equipment inspected section, the words "New Vehicle" ~~should~~ shall be entered in the "adjust" column. The PDI ~~inspector should~~ employee performing the inspection shall sign his name in the "O.K." column.

**19VAC30-70-60. Rejection stickers.**

A. Only one rejection sticker shall be issued to any one vehicle. A rejection sticker shall not be issued to any vehicle already bearing such a sticker or to one which bears evidence of previously being issued a rejection sticker. When a vehicle is bearing a valid or expired rejection sticker, it is not to be removed unless the vehicle meets all of the inspection requirements.

B. A vehicle rejected by one station may be reinspected by another station if the owner desires to have this done; however, that station shall perform a complete inspection of the vehicle.

C. Reinspection of a rejected vehicle by the same station during the 15-day validity of the rejection sticker need include only a check of the items previously found defective, unless there is an obvious equipment defect that would warrant further rejection of the vehicle. Such reinspection will not constitute a complete inspection and a \$1.00 fee may be charged. Furthermore, if a vehicle returns for reinspection

within the 15-day period, the rejecting station will reinspect the vehicle without delay or at conclusion of the current inspection being performed.

1. If additional defects are detected during reinspection of a vehicle previously rejected, the vehicle will not be issued an approval sticker.

2. No vehicle bearing a valid rejection sticker shall be entitled to receive more than two reinspections by the rejecting station during the validity period of the rejection sticker.

3. The validity period of the rejection sticker shall be 15 days in addition to the day of inspection.

4. Any vehicle that is presented for inspection at another inspection station after the 15-day validity period, if the vehicle was rejected for brakes, and the inspector cannot determine which wheels were ~~removed~~ checked, then all four wheels will be removed to ensure that all repairs or defects have been corrected.

D. If repairs are to be made to a rejected vehicle that would necessitate removing the vehicle from the inspection lane, no rejection sticker need be issued; however, the vehicle must be returned to an approved lane for a recheck of the rejected items and the ~~installation~~ application of the approval sticker.

E. If the vehicle does not meet all the requirements and the owner does not authorize immediate repairs, and if a rejection sticker has not already been issued, a rejection sticker ~~will~~ shall be legibly filled out in its entirety with a black ball point pen. Automated MVIP stations are required to have the certified safety inspector performing the inspection enter the receipt information via the MVIP system. The complete vehicle identification number (VIN), tag number or car dealer name if a dealer tag is attached, mileage, year, make, and model shall be included. Circle A circle to indicate which wheels were pulled to check ~~for~~ the brakes and ~~place~~ an individual mark shall be placed in each equipment block of the rejection sticker that was pertinent to ~~it being issued~~ the rejection. In addition, information may be written on any blank area as to the exact nature of the rejection (i.e., front brakes vs. rear brakes). The date of issue shall be punched, and the sticker affixed to the same location as indicated in 19VAC30-70-50 C, E, and G. (When affixed to a trailer or motorcycle, the face of the rejection sticker shall be glued attached to the trailer or motorcycle in order to allow the rejection data on the back side to be read.)

F. The operator of the rejected vehicle shall be informed of the following:

1. The rejection sticker is valid for 15 days in addition to the date of inspection.

2. The rejection sticker places no travel restriction on the operation of the vehicle and is issued in lieu of an approval sticker.

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# Regulations

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3. The vehicle operator is legally responsible for any defect if operated on the highway and may be subject to a traffic summons for any existing equipment violation.

G. Duplicate copies (pink) of rejection stickers shall be forwarded, in numerical order, to the Safety Division by the fifth of the month following the month of inspection. The yellow copy shall be retained, in numerical order, by the station for at least 24 months.

## **19VAC30-70-70. Inventory.**

A. Each inspection station at the end of each quarter shall fill in the applicable portion of an ~~inspection sticker inventory report~~ Inspection Sticker Inventory Report (Form SP-221) in duplicate on approval stickers, trailer/motorcycle decals and rejection stickers used or unused. This report shall be completed by the fifth of April, July, October and January for the preceding quarter and shall be kept on file at the station.

NOTE: The submission of the quarterly inventory report does not apply to automated MVIP system users.

1. At the end of the quarter, the monthly totals will be combined into a quarterly total reflecting the total number of approval stickers, trailer/motorcycle decals, rejection stickers and voided stickers used during the quarter. All approval stickers, trailer/motorcycle decals and rejection stickers unused and on hand at the end of the quarter shall be listed in the space provided on the ~~inventory report~~ Inspection Sticker Inventory Report (Form SP-221).

2. The inventory report, after its completion, shall be retained at the inspection station until it is reviewed and picked up by the station's supervising trooper ~~during his supervisory visit~~. The ~~other~~ duplicate copy of the inventory report shall be retained by the station for at least 24 months.

B. The quarterly inventory reports shall be completed according to the following schedule:

Quarter of Year	Months of
1st	January, February, March
2nd	April, May, June
3rd	July, August, September
4th	October, November, December

### 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 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.

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 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 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.

## 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).
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 ~~cannot be satisfactorily removed from the lining~~ 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

11. Brake drums or brake discs (rotors) are worn or scored to the extent that their remachining 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.

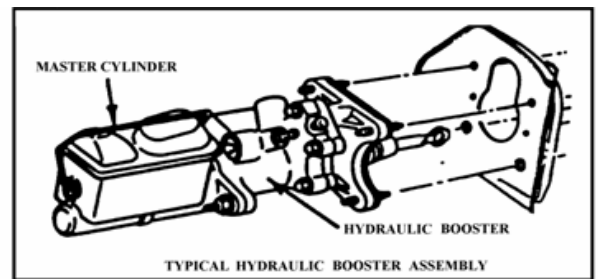
NOTE: Some motor vehicles, beginning with 1976 models, have a hydraulic power system that serves both the ~~power assisted~~ power-assisted brakes and ~~power-assisted~~ power-assisted steering system. Some vehicles, beginning with 1985 models, have an integrated hydraulic actuation and anti-lock brake 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~~ power-assisted systems, the engine should be running.

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

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



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

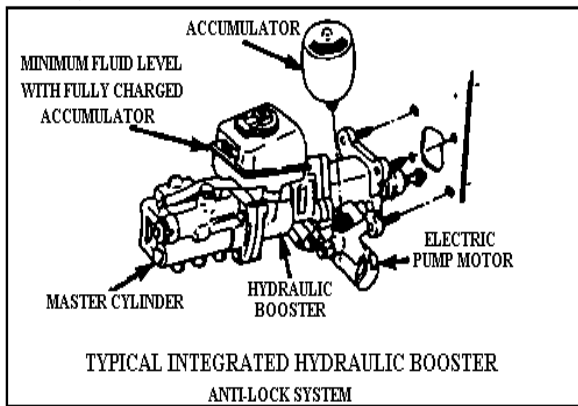
Reject vehicle if there is insufficient fluid in the reservoir; if there are broken, kinked or restricted fluid lines or hoses; if there is any leakage of fluid at the pump, steering gear or brake booster, or any of the lines or hoses in the system; or if belts are frayed, cracked or excessively worn.

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

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

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

# Regulations

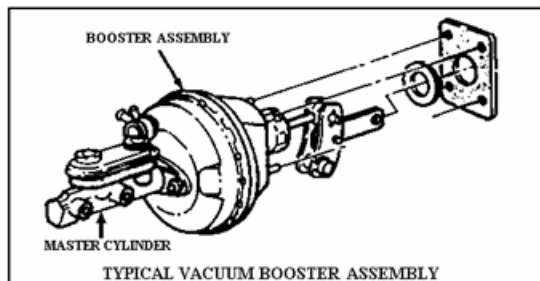


5. Condition of integrated hydraulic booster/anti-lock system with electronic pump. With the system fully charged, inspect system for fluid level and leaks.

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.



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 lining 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. ~~Ammeter~~ 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.

General Specifications

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

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

Brake tubing and ~~hose~~ hoses must:

a. Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;

b. Be secured against chaffing, kinking, or other mechanical damage; and

c. Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures.

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

10. 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.

11. 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 other contamination is present on the linings, drums, or rotors.

~~5.~~ 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.

~~6.~~ 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.

~~7.~~ 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.

~~8.~~ 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.

~~9.~~ 10. The accelerator does not disengage after being depressed, allowing the engine to return to a normal idle speed.

~~10.~~ ~~The storage~~ 11. Any battery is not attached to a fixed part of the motor vehicle ~~or~~ and protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment. This includes all brackets, hardware, bolts, and bushings used for securely mounting the ~~storage~~ battery to the vehicle.

- a. Removable covers or enclosures shall be substantial and shall be securely latched or fastened.
- b. The ~~storage~~ battery compartment shall have openings to provide ample battery ventilation and drainage.
- c. 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.
- d. Whenever a battery and a fuel tank are both placed under the driver's seat, they shall be partitioned from each other, and each compartment shall be provided with an independent cover, ventilation, and drainage.

**19VAC30-70-100. Brakes: trailer (GVWR less than 10,000 pounds).**

Inspect for and reject if:

- 1. Trailer brakes do not comply with 19VAC30-70-80 and 19VAC30-70-90.
- 2. Operator does not have full control over brakes. For the purpose of this subdivision, surge brakes are considered to be in control of the operator.
- 3. All trailers, manufactured or assembled after January 1, 1964, ~~registered for~~ having an actual gross weight of 3,000 pounds or more are not equipped with emergency breakaway brakes designed to:
  - a. Apply automatically upon breakaway from towing vehicle.
  - b. Remain fully applied for at least 15 minutes.
  - c. Apply and release by operation of the manual emergency control.
- 4. A minimum of one wheel must be removed from each axle equipped with brakes to inspect the brake components.

NOTE: Trailers ~~registered for~~ ~~or~~ having an actual gross weight of 3,000 pounds or more, but with a manufacturer's gross weight rating of less than 10,000 pounds, need not be equipped with brakes on all wheels.

- a. Exception: Wheels on trailers equipped with open brake mechanisms are not required to be removed.

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# Regulations

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b. The inspection receipt approval and rejection shall be marked to reflect on which side the wheel or wheels were pulled.

## **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 ~~(2)~~ (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~~ or CV boots are defective or missing. Do not inspect ~~CV boots~~, CV joints, or universal joints on rear wheel drive vehicles.

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 ~~operating~~ running during testing.

11. Power steering ~~belts do~~ belt does not have sufficient tension ~~or are~~, is frayed, or missing. The serpentine ~~v-ribbed belt is more common versus the old v drive belt and~~ 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.)

12. 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.

13. 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.

14. Steering column has any absence or looseness of bolts or positioning parts, resulting in motion of the steering column from its normal position.

15. A spring is broken, sagging or misaligned, shackles are worn or loose, or if air ~~springs~~ 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.

16. Vehicles designed for shock absorbers or cross stabilizer links if any are disconnected or broken, bent, loose or do not function properly.

17. 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.

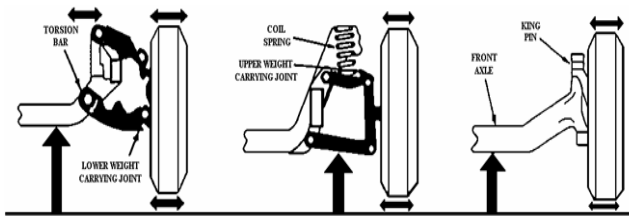
NOTE: All rear suspension parts including but not limited to control arms (upper and lower ball joints, radius or torque arms, stabilizer bars, and trailing arms) shall not have any damage or noticeable play when checked with hand pressure.

18. 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.

19. If vehicles measured movement at top or bottom of tire is greater than:

Wheel Size:	less than 17 inches -	1/4 inch
	17 to 18 inches -	3/8 inch
	over 18 inches -	1/2 inch



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: Front wheel bearings on rear wheel drive vehicles or rear wheel bearings on front wheel drive vehicles. With vehicle lifted properly, grasp tire at top and bottom, rock in

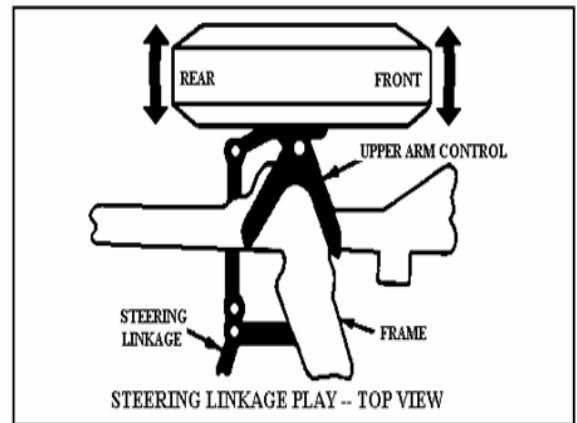
and out and record movement. Wheel bearing looseness is detected by the relative movement between the brake drum or disc and the braking plate or splash shield. **CAUTION:** ~~If air suspension vehicles are hoisted via body support area, air spring damage may occur if the air suspension switch is not 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.~~

**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)



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 there is noticeable play at any point in the steering mechanism except General Motors products. On General Motors products, reject vehicle if play exceeds factory specifications.~~

~~3. 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.

~~4. 3.~~ Reject vehicle if the steering stops have been removed or adjusted in so that steering radius is reduced.

# Regulations

E. Steering lash/travel. Reject vehicle if inspection reveals excessive wear and/or looseness in any ball stud, end assembly, pivot point, mechanical linkage and/or if steering gear box has any loose or missing bolts, or excessive wear, and/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.

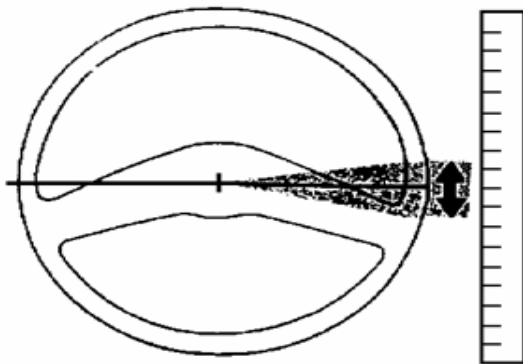
With road wheels in straight ahead position, turn steering wheel until motion can be detected at the front road wheels. Align a reference mark on the steering wheel with a mark on a ruler and slowly turn steering wheel in the opposite direction until motion can again be detected at the front road wheel (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	Manual Power steering system	Power 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.



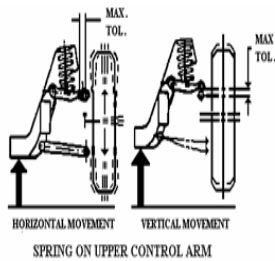
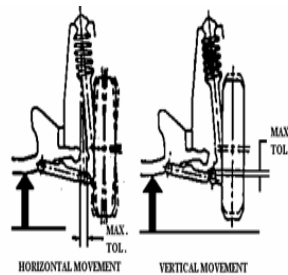


FIGURE 1



MACPHERSON STRUT  
FIGURE 2

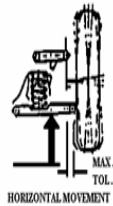


FIGURE 3

SPRING OR TORSION BAR ON LOWER CONTROL ARM  
RAISING POSITIONS FOR SUSPENSION SYSTEMS

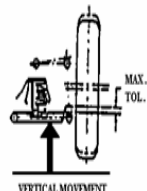


FIGURE 4

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.

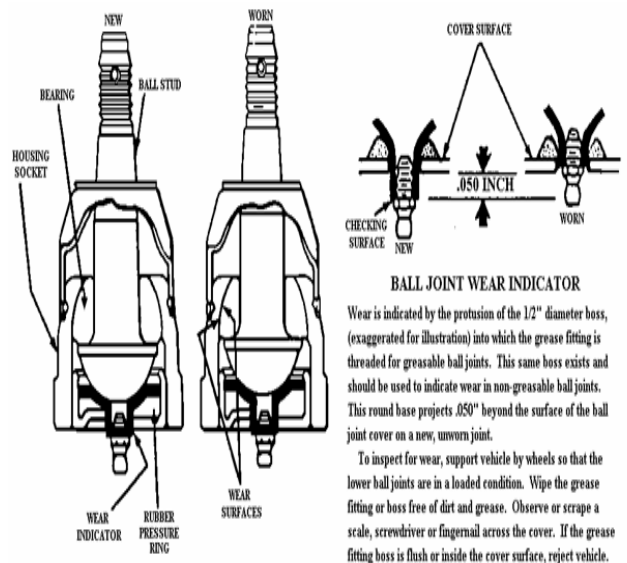
2. If there are no manufacturer's recommended procedures and specifications, the lower ball joints will be checked when hoisted as in Figures 1 or 2 of subsection G of this section, or in the upper ball joints when hoisted as in Figures 3 or 4 of subsection G of this section. There should be no noticeable play detected in the ball joints when checked in this manner.

3. Reject vehicle if play exceeds the manufacturer's specifications. ~~It is recommended that~~ 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.

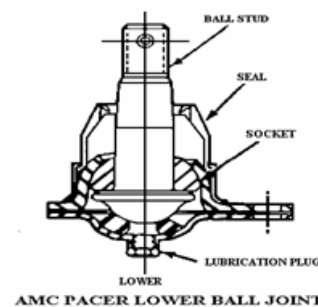
I. Ball joints with wear indicators. Support vehicle with ball joints loaded (in normal driving attitude). Wipe grease fitting and checking surface free of dirt and grease. Determine if checking surface extends beyond the surface of the ball joint cover.

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 scribe 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.



K. Chrysler front-wheel drive vehicles (lower only). With the weight of the vehicle resting on the road wheels, grasp the

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# Regulations

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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 body of any motor vehicle, trailer or semitrailer is broken-, cracked, bent or damaged at any location, including any welded joint and/or is rusted or corroded to the point the frame is weakened as to constitute a hazard during the operation of the vehicle.
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. ~~The more common fluid-filled mounts or those with rubber bushings~~ Any engine or transmission mount should be rejected if they allow the power train to come in contact with the firewall or other body parts.
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," or "For Off-Highway Use Only," or "Mobile Home Use 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 ~~one of its axles~~ 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  $\frac{2}{32}$  of an inch when measured as follows:

NOTE: The exemptions provided in (i) and (ii) of this paragraph 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  $\frac{2}{32}$  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  $\frac{2}{32}$  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  $\frac{2}{32}$  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

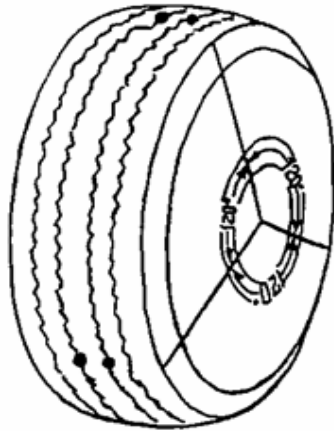


FIGURE 1

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.

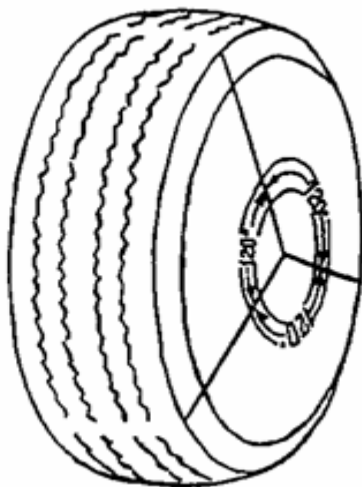


FIGURE 2

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 shall be in the tread area only. Plugs/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 bolts, nuts or lugs are loose, missing or damaged.

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 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.

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 headlamps of an approved type. ~~The approval designation letter that must appear is DOT or SAE H, HG, HH or HR. 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.~~

2. Headlights are not of the same approved type (Halogen, HID, etc.) except sealed beam headlamps. At least two headlamps are required.

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.

NOTE: ~~A clear plastic headlight assembly lens with a crack may be repaired by procedures similar to that required of a windshield repair. The inside reflector surface must be in satisfactory condition and the repair cannot affect the headlight aiming pattern. This repair does not apply to headlamps and the headlamp assembly lenses that are designed where the aiming pattern is part of the lens.~~

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# Regulations

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4. Moisture or water buildup in headlamp is such that it affects the aiming pattern.

5. ~~Lens is other than clear. 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 ~~(must have DOT stamp and the manufacturer's name) or are over 32 candlepower. (Sealed beam lamps including the ones which permit the use of a replacement halogen bulb are the only lamps approved with over 32 candlepower.)~~ Ordinary lenses and reflectors were not designed for over 32 candlepower bulbs and marked with all of the following: light source type, the manufacturer's name or trade mark, and DOT.

NOTE: ~~The Sylvania 9003 (HB2), 9004 (HB1), 9005 (HB3) and 9006 (HB4) Cool Blue xenon bulbs were found to comply with FMVSS 108. There is a noticeable blue tint around the outside of the lamp pattern but the concentrated light is white. Only the Sylvania has approval and is marked with DOT.~~

- Approved headlamp bulbs: HB1, HB2, HB3, HB3A, HB4, HB4A, HB5, H1, H3, H7, H8, H8B, H9, H9B, H11, H11B, H11C, H13, H13C, H15, HIR1, HIR2.

- Approved headlamp bulbs that require ballast: 9500, D1R, D1S, D2R, D2S, D3R, D3S, D4R, D4S, D5S, D7S, D8S.

- 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 F 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.

c. 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 or "country" 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 shall be checked for proper aim by using ~~either~~ an optical ~~or a mechanical~~ headlamp aimer on every motor vehicle inspected, except vehicles 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).

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 ~~may~~ shall be used to properly aim ~~any of the~~ 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.

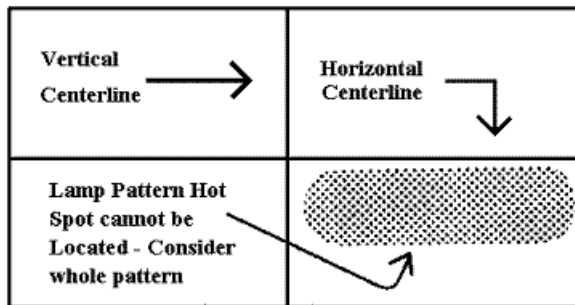
2. When aiming headlamps, first look for the type of lamp, which will be found embossed on the lens. The type determines which aiming requirements must be followed for the optical aimer.

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~~ 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.

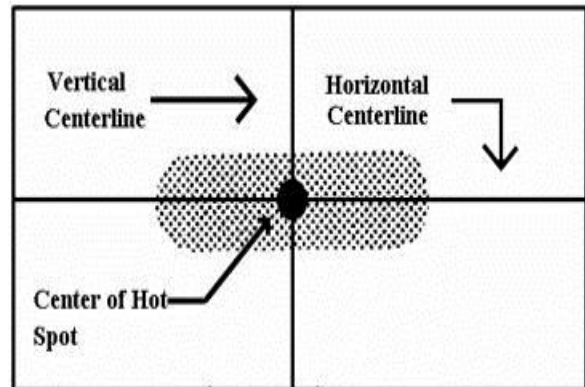
Letters marked on the headlamp cover should properly identify VOL and VOR headlamps.

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. Mechanical aimers:**

~~1. Mechanical aimers can be used to aim only those headlamps that have "aiming" pads molded into the lens.~~

~~2. Mechanical aimers must be properly calibrated and used with the proper adapter recommended by the manufacturer. (The adapter setting will be embossed on the face of some lamps.)~~

~~3. Turn on headlamps and check all filaments both high and low beam. Turn off headlamps before checking for adjustments. Do not turn on headlamps while mechanical aimers are attached to the headlamp.~~

~~4. 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.~~

**E. 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 subdivision 1 of 19VAC30-70-170.)

**F. E.** Inspect for and reject if:

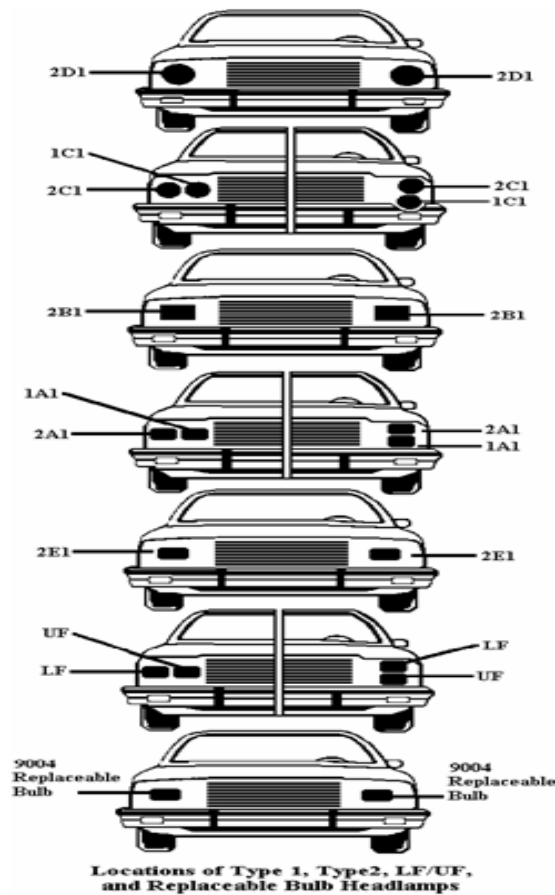
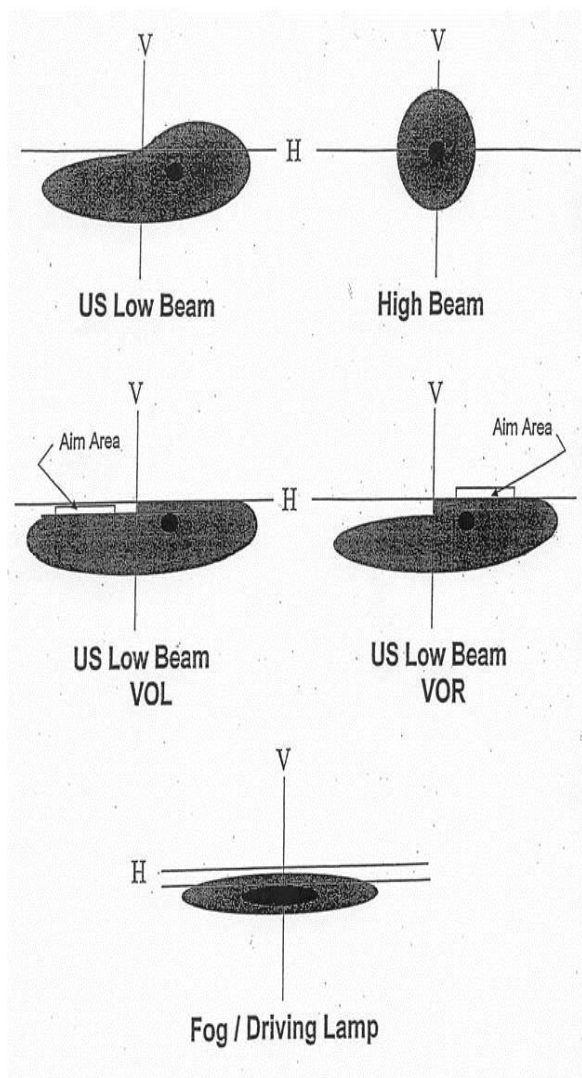
1. Lamps are not an approved type ~~headlamps (DOT or SAE H or HH)~~ as previously indicated in section A 6.

# Regulations

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



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 lamp is not illuminated by an approved license plate lamp that admits 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~~ 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~~ filament-burning bulbs), they will pass 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 ~~and reflectors~~ are replaced with clear ones ~~or the tail lamps are missing the side red marker lamps or reflectors~~.

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.

NOTE: Taping or gluing cracks or pieces is not ~~allowed~~ 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 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~~ 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~~ 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) 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 or in the backup lights.

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# Regulations

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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~~ publicly-owned state forest warden vehicles, ambulances, any rescue vehicle used for emergency calls, local ~~departments~~ 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 ~~company~~ department, volunteer fire company or volunteer rescue squad, any ambulance driver employed by a ~~privately-owned~~ 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 ~~company~~ department, volunteer fire company, volunteer rescue squad or any ambulance driver employed by a ~~privately-owned~~ 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 ~~fire-fighting~~ vehicle ~~exclusively for fire fighting, 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,~~ 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~~ 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 fire-fighting 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, fire-fighting, 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.

I. Inspect for and reject if:

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

EXCEPTION: Any lighting device that is both covered and not illuminated, other than lamps required, 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 10 i and 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 per subdivision I 11g (2).



2. A vehicle has installed on it a warning lamp (DOT or 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.

3. ~~Vehicle is equipped with a combination of auxiliary lamps that 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 in inspection.)

5. Vehicle is equipped with a lighted advertising sign, except commercial motor vehicles, buses operated as public carriers, taxicabs, and ~~privately owned~~ 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~~ 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.

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. 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) 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 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 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 or 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) 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 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;
- 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.

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# Regulations

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

Inspect for and reject if:

a. ~~A vehicle is equipped with more than two fog lamps~~ 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. Lamps are not of an approved type (DOT or SAE-F on front or F2 on rear plus two-digit year and manufacturer) 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 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.

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) 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 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/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 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.

## 19VAC30-70-170. Parking lamps.

A. Parking lamps are not required; however, if installed they must operate and be inspected. Parking lamps may burn in conjunction with the headlamps.

B. Inspect for and reject if:

1. Lamps are not of an approved type (DOT or SAE-P) or a lamp has been altered;

NOTE: The clear lens lights between the headlamps and the red lens lights between tail lamps on various vehicles are approved parking lamps and must work if not rendered inoperative by removing the bulb, socket and wiring from each individual lamp.

2. Parking lamps have other than white or amber lenses showing to the front. If the lens is clear, then the bulb shall be amber;

3. Parking lamps do not burn with the rear lamps;

4. If lens has a piece broken from it. Lens may have one or more cracks provided no off-color light projects through the crack or cracks;

5. Reject if the vehicle has unapproved lens or plastic covers, any other materials which are not original equipment or any colored material placed on or in front of the parking lamps;

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

7. LED (~~light-emitting~~ 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~~ filament-burning bulbs), they will pass

inspection if more than 50% of the diode lights are burning.

**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 ~~or PC~~, PC, or PC2) or reflectors (DOT or SAE-A or B) are not of an approved type or a lamp has been altered.

~~If the lamps or reflectors have~~ 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 lamps or reflectors.

3. Lenses on 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.

NOTE: LED (~~light emitting~~ 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~~ 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 ~~dimension or marker~~ 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 ~~clearance~~ 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 ~~clearance~~ 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.

8. Any combination of vehicles whose actual length exceeds 35 feet if the vehicles are not wide enough to ~~have~~ 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.

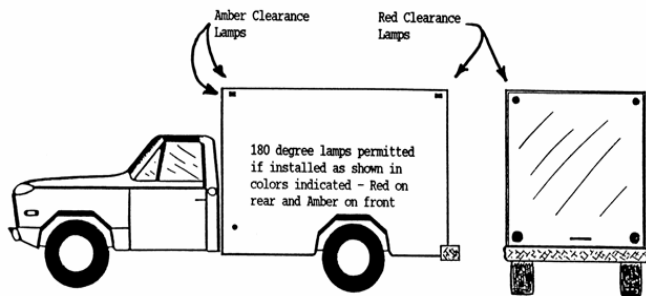
9. Any passenger vehicle is equipped with clearance lamps, unless such lamps are used to mark the extreme width of the vehicle or used as taxicab identification, or used as supplemental turn signals. (See 19VAC30-70-190 B.)

10. Vehicles so constructed as to make compliance with the requirements of subdivisions 1, 5, 7, 9<sub>2</sub> and 10 of this section impractical will be equipped with clearance lamps and reflectors at the most practical location to provide maximum visibility.

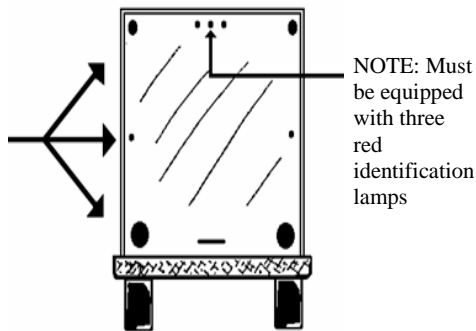
11. Any vehicle is not equipped with two front side marker lights (amber) and two rear side marker lights (red).

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).

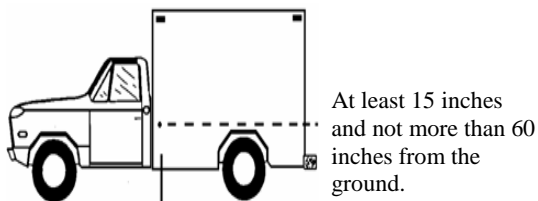
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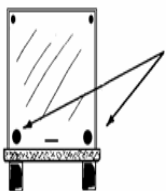
If equipped with three red identification lamps, the required clearance lamps may be mounted at any height so long as they indicate, as nearly as practicable, the extreme width of the vehicle.



## ILLUSTRATIONS FOR PROPER INSTALLATION OF REFLECTORS



Amber Reflector



Red Reflectors: At least 15 inches and not more than 60 inches from the ground.

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

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

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

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

D. Inspect for and reject if:

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

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

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

NOTE: Camper shells ~~and/or other items that may be temporarily carried on or attached to multipurpose vehicles will not be considered during inspection of the equipped with a center high mount stop lamp, provided the lamp continues to function as designed~~ must be in good working order.

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

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

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

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

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

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

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

8. Turn signal lens is not clear or amber to the front, or red or amber to the rear. Lens or bulb color has been altered or modified. If the turn signal lens is clear, then the bulb shall be amber.

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

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

NOTE: LED (~~light-emitting~~ 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~~ filament-burning bulbs), they will pass inspection if more than 50% of the diode lights are burning;

10. Lens has a piece broken from it. The lens may have one or more cracks provided an off-color light does not project through the crack(s).

NOTE: ~~No repairs shall be effected like taping~~ Tapping or gluing cracks or pieces is not permitted.

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

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

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

13. All "Class A" signals are not mounted at least three feet apart. (This does not apply to the combination rear signal device.) However, signal lamps that are mounted as far

apart as practical inside and at the rear of the frame so as to be properly visible will meet inspection requirements;

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

**19VAC30-70-200. Permissible lighting equipment.**

A. Any vehicle may be equipped with:

1. Running board or courtesy lamps, of not over six candlepower.
2. Vacant or destination signs, if a taxicab or bus.
3. Identification lamps of approved type (SAE -P2 or P-3).
4. Interior lights, of not more than 15 candlepower.

Exception: This does not apply to alternating, blinking or flashing colored emergency lights mounted inside ~~law enforcement~~ law-enforcement vehicles or flashing shielded red or red and white lights, mounted inside vehicles owned by members of volunteer fire companies, volunteer rescue squads or owned or used by professional firefighters, or police chaplains. Also, this does not apply to fire-fighting vehicles equipped with map lights.

5. Hood ornament light if of an approved type or permitted by the ~~Superintendent~~ superintendent.

6. Any approved lamp in good working order when used for the purpose for which it was approved.

B. Side marker lamps are not required. If installed they must operate and be inspected. If the bulb, socket and wiring are removed from an individual lamp unit, the unit will not be considered during inspection. This does not include wraparound tail/marker lamp assembly/lens, which is intended to perform multiple functions.

C. Inspect for and reject if:

1. Lamps are not of an approved type (DOT or SAE-P2 or P3), or do not comply with subdivision 1 of this section;
2. Lamps are not installed on the permanent structure of the vehicle with one as far to the rear and one as far forward as practicable and at a location which is not less than 15 inches above the road surface when measured from the center of the lamp;
3. Lamps installed on the side to the rear do not have a red approved lens (SAE-P2). Lamps installed on the side of the front do not have a clear or amber approved lens (SAE-P2) so as to project an amber light. If the approved lens on the front side is clear, then the bulb shall be a DOT-approved amber bulb;
4. Lens has a piece broken from it. The lens may have one or more cracks provided no off-color light projects through the crack(s);
5. Any vehicle has wire, unapproved lens or plastic covers, any other materials which are not original equipment or

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# Regulations

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any colored material placed on or in front of permissible lighting equipment;

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

7. LED (~~light-emitting~~ 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~~ filament-burning bulbs), they will pass inspection if more than 50% of the diode lights are burning.

## **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 (~~DOT and AS 1, AS 2, or AS 3~~) (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 but is not limited to large objects hanging from the inside mirror, CB radios or tachometers on the dash, 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.

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: Windshield repair is a viable option to windshield replacement. 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~~ superintendent. Authorization is hereby granted for stickers 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. Department of Defense decals measuring no more than three inches in width and eight inches in length may be affixed to the upper edge of the center of the windshield. At the option of the motor vehicle's owner, the decal may be affixed at the lower left corner of the windshield so that the inside or left edge of the sticker or decal is within one inch of the extreme left edge of the windshield when looking through the windshield from inside the vehicle. When placed at this location, the bottom edge of the sticker or decal must be affixed within three inches of the bottom of the windshield. This location can only be used if the owner of the vehicle has chosen not to place any required county, town or city decal there. The normal location for any required county, town, or city decal is adjacent to the official inspection sticker and must not extend upward more than three inches from the bottom of the windshield. Commercial Vehicle Safety Alliance (CVSA) inspection decals may be placed at the bottom or sides of the windshield provided such decals do not extend more than 4-1/2 inches from the bottom of the windshield and are located outside the area swept by the windshield wipers and outside the driver's sight line.

Any sticker 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~~ 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: Fastoll 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: Volvo placed a warning sticker on the windshield of their cars equipped with side impact air bags. In accordance with this paragraph the sticker shall be removed. If the sticker can be removed intact then it may be placed on the left rear window in the lower front corner. Customers should be referred to the nearest Safety Division area office for replacement if it could not be removed intact.

EXCEPTION: Stickers or decals used by counties, cities and towns in lieu of license plates may be placed on the windshield without further authority. Except on privately owned yellow school buses, the sticker or decal shall be placed on the windshield adjacent to the right side of the official inspection sticker or the optional placement to the extreme lower left side of the windshield. The top edge of the sticker or decal shall not extend upward more than three 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 looking through the windshield from inside the vehicle. At the option of the motor vehicle owner, the sticker or decal may be affixed at the lower left corner of the windshield so that the inside or left edge of the sticker or decal is within one inch of the extreme left edge of the windshield when looking through the windshield from inside the vehicle. When placed at this location, the bottom edge of the sticker or decal must be affixed within three inches of the bottom of the windshield. Any expired sticker or decal, excluding a rejection sticker that is present on the windshield at the time of inspection, shall not be issued an approval sticker unless the owner/operator "authorizes" its removal. A rejection sticker will be issued versus an involuntary removal. On privately owned yellow school buses, the sticker or decal shall be placed on the windshield adjacent to the left side of the official inspection sticker, and not more than 1/4 inch from the left edge of the official inspection sticker when looking through the windshield from inside the vehicle. The top edge of the sticker shall not extend upward more than three inches from the bottom of the windshield.

~~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 windshield displaying words, lettering, numbers or pictures that does not extend below the AS-1 line is permitted. In the absence of an AS-1 line sunshading material on the windshield displaying words, lettering, numbers or pictures cannot extend 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: Vehicles with logos made into the glass at the factory ~~that~~ 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 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.

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 ~~raised or~~ lowered easily so a hand signal can be given. (This does not apply to vehicles that were not designed and/or manufactured for the left front glass to be lowered, provided the vehicle is

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# Regulations

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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/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~~ 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 ~~X~~ 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.

## 19VAC30-70-220. Mirrors.

Inspect for and reject if:

1. Any motor vehicle is not equipped with at least one mirror.
2. Any 1969 and subsequent model motor vehicle, designed and licensed primarily for passenger vehicular transportation, is not equipped with at least one outside and one inside rear view mirror.

NOTE: The inside mirror cannot be removed on these vehicles even if it has an outside on each side.

Vehicles equipped with only one outside mirror must have the mirror on the driver's side.

EXCEPTION: No ~~motor~~ multipurpose vehicle shall be required to be equipped with an inside rear view mirror if it does not have a rear window or if the rear window is so obstructed as to prevent rearward vision by means of an inside rear view mirror, if the motor vehicle has horizontally and vertically adjustable outside rear view mirrors installed on both sides of such motor vehicle in such a manner as to provide the driver of such motor vehicle a clear view along both sides of such motor vehicle for a distance of not less than 200 feet.

3. Reflecting surface of mirror is cracked, broken, peeled, pitted, clouded, tarnished, has sharp edges, reflects more than one image or a distorted image, or is not mounted securely.
4. Mirror does not give the driver a clear view of the road 200 feet to the rear.
5. Interior rear view mirror.
  - a. Mirror is loose enough that rear view is impaired.
  - b. Mirror cannot be adjusted or will not maintain a set adjustment.
6. Exterior rear view mirror.
  - a. Mirror is loose enough that rear view is impaired.
  - b. Left mirror is obscured by an unwiped portion of windshield or mirror is mounted so it cannot be adjusted from driver's seat. (Applies to 1969 and subsequent model vehicles.)
  - c. A right side mirror is not required if the reflecting surface of the mirror has been completely removed from the mirror housing; however, a vehicle will be required to have two outside mirrors if there is a sticker or stickers, regardless of size, sunshading or tinting film on the rear side windows or rear window.

NOTE: A single sticker no larger than 20 square inches, if such sticker is totally contained within the lower five inches of the glass of the rear window and does not obstruct the center high mount brake light, is allowed and will pass inspection.

## 19VAC30-70-230. Windshield wiper; defroster.

- A. Windshield wiper.



INSPECT FOR AND REJECT IF:

1. Vehicle is equipped with a windshield and is not equipped with a windshield wiper;
2. Vehicle was manufactured before January 1, 1943, and is not equipped with at least one wiper on the driver's side. This wiper may be hand operated;
3. Vehicle was manufactured after January 1, 1943, and is not equipped with a windshield wiper or wipers that clear both sides of the windshield. Vehicles converted from dual wipers to a single wiper are acceptable provided it continues to clear both sides of the windshield. These wipers must be mechanically operated by electric, vacuum, or air, but not by hand. A switch in good working order and convenient to the driver must be present to turn the wipers on and off. Any wiper that parks within the area covered by the driver's windshield wiper blade, excluding the three inches above the bottom of the windshield shall be rejected. (See 19VAC30-70-210 B 6);
4. Blade has brittle worn, torn or ripped rubber or if metal comes in contact with the windshield;
5. Wiper does not operate freely; or if it is an electrically or mechanically operated wiper which must be operated by hand.

NOTE: Inspect only wipers found on the front windshield.

B. Windshield defroster. Vehicles manufactured after January 1, 1969, must be equipped with windshield defroster systems.

INSPECT FOR AND REJECT IF:

1. Any 1969 or subsequent model is not equipped with a windshield defroster system;
2. Defroster fan fails to function;
3. Fan functions, but a warm stream of air cannot be felt blowing against the windshield. Engine must be warm and all elements of the defroster system must be in the on position. Switch is not convenient to the driver and working properly.

**19VAC30-70-260. Hood latch system.**

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~~ 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.

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

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

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

"Front outboard designated seating positions" means those designated seating positions for the driver and outside front seat passenger (except for trucks which have the passenger seat nearest the passenger side door separated from the door by a passageway used to access the cargo area).

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

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

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

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

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

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

Passive Restraint System

A. Inflatable occupant restraint (commonly known as air bags).

B. Passive belt system (automatic deployment around the occupant after the occupant enters the vehicle and closes the door).

C. Inspect for and reject if:

1. Not of an approved type; (see approved equipment section for seat belts)

# Regulations

2. Installation not in compliance as follows:

- a. All motor vehicle seat belt anchorages and attachment hardware must meet the standards and specifications set forth by the Society of Automotive Engineers, Inc., and Federal Motor Vehicle Safety Standard No. 209 (49 CFR 571.209), for such anchorages and attachment hardware;
- b. Any questions concerning the proper installation of seat belt assemblies should be directed to the nearest Safety Division office.

3. Any 1963 and subsequent model vehicle, designed and licensed primarily for private passenger use, is not equipped with adult safety lap belts for at least two front seats or a combination of lap belts and shoulder straps or harnesses.

4. Any passenger car manufactured on or after January 1, 1968, is not equipped with lap/shoulder or harness seat belt assemblies located at the front outboard designated seating positions (except in convertibles) and lap seat belt assemblies located at all other designated seating positions.

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

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

- a. Any passenger car manufactured on or after September 1, 1991, (including convertibles) is not equipped with a lap/shoulder seatbelt assembly located at all forward facing rear outboard designated seating positions.
- b. Any truck, multipurpose vehicle, or bus (except school buses and motor homes) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, manufactured on or after September 1, 1991, is not equipped with a lap/shoulder seatbelt assembly at all forward facing rear outboard designated seating positions.
- c. Any of the heretofore described vehicles manufactured on or after September 1, 1992, are not equipped with lap/shoulder seatbelt assembly located at all forward facing rear outboard designated seating positions on a readily removable seat.

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

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

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

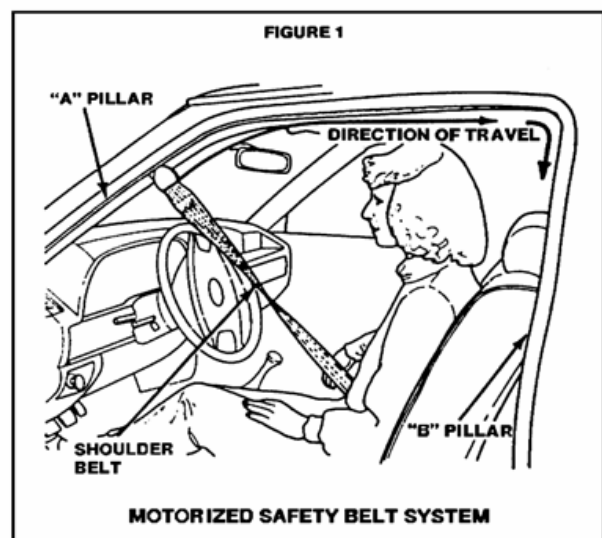
9. All other motor vehicles manufactured on or after January 1, 1976, except those for which requirements are specified in subdivisions 3 and 4 of this subsection, do not have lap/shoulder or harness seat belt assemblies installed for each front outboard designated seating position. Those vehicles originally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

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

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

D. Safety belts (motorized). Enter the vehicle and close the door. Insert the key into the ignition and turn to the on position. A motor causes the shoulder belt to slide along a track (Figure 1) starting at the front body "A" pillar and moving rearward to its locked position at the "B" pillar. The seat belt warning indicator lamp should illuminate with the lap belt unbuckled. When the ignition is turned to the off position and the door is opened, the shoulder belt moves forward to the "A" pillar.

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



E. Air bag and air bag readiness light.

Inspect for and reject if:

1. Any defects in the air bag system are noted by the air bag readiness light or otherwise indicated;
2. The air bag has been deployed and has not been replaced (and is not deactivated because of a medical or other exemption and a notice is posted to indicate that it has been deactivated);

3. Any part of the air bag system has been removed from the vehicle; or

4. If the air bag indicator fails to light or stays on continuously.

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

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

**19VAC30-70-310. Air pollution control system or device.**

A. No motor vehicle ~~registered in this Commonwealth and~~ manufactured for the model year 1973 or for subsequent model years shall be operated on the highways of this Commonwealth unless it is equipped with an air pollution control system or device, or combination of such systems or devices installed in accordance with federal laws and regulations.

B. The provisions of this section shall not prohibit or prevent shop adjustments or replacements of equipment for maintenance or repair or the conversion of engines to low polluting fuels, such as, but not limited to, natural gas or propane, so long as such action does not degrade in any manner or to any degree the anti-pollution capabilities of the vehicle power system.

**C. INSPECT FOR AND REJECT IF:**

1. The air pollution control system or device on motor vehicles ~~registered in this Commonwealth and~~ manufactured for the model year 1973 or for subsequent model years has been removed or otherwise rendered inoperable. The conversion of an engine to utilize low polluting fuels such as natural gas or propane may result in the removal of some part of the pollution control system; however, if the engine is converted to utilize both low polluting fuels and/or gasoline no part of the pollution control system or device can be removed or otherwise rendered inoperable.

2. Any of the essential parts of the pollution control system or devices on vehicles ~~registered in this Commonwealth and~~ manufactured for the model year 1973 or for subsequent model years have been removed, rendered inoperative or disconnected. This includes any belt, valve, pump, hose line, cap, cannister, catalytic converter and the restrictor in the gasoline tank filler neck on vehicles required to use unleaded fuel.

NOTE: In order to determine if a motor vehicle was originally equipped with emissions control equipment, refer to the vehicle's emissions control information label which is usually located in the engine compartment.

3. The emission control system or device on motor vehicles ~~registered in this Commonwealth and~~ manufactured for the model year 1973 or for subsequent model years is not comparable to that designed for use upon the particular vehicle as standard factory equipment.

Any new or used after market catalytic converter installed on a vehicle after December 31, 1987, shall meet and be installed in accordance with specifications established by the Environmental Protection Agency. A catalytic converter so installed shall be identified with a visible, permanent, non-destructible label or stamp which will identify the manufacturer, vehicle application and month and year of manufacture. The label shall be in accordance with the following format:

a. New converters - N/XX/YYYY/ZZZZ

b. Used converters - U/XX/YYYY/ZZZZ

N - New converter designation

U - Used converter designation

XX - Manufacturer code issued by EPA

YYYY - Numerical designation of vehicle application

ZZZZ - Month and year of manufacture (i.e. - 0188 for January, 1988)

Part IV

Inspection Requirements for Motorcycles

**19VAC30-70-330. Motorcycle inspection.**

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

**19VAC30-70-340. Motorcycle brakes.**

A. The inspector, if qualified to operate a motorcycle, must drive it into the inspection lane and test the service brakes. If not qualified to operate motorcycles, the inspector must observe the operator operate the brakes. The inspector is required to observe and inspect the braking system on both wheels if so equipped or required to be equipped.

**B. Inspect for and reject if:**

1. Any motorcycle is not equipped with a brake, or which has a disconnected brake.

2. Any motorcycle which was originally equipped with a service brake system on both the front or rear wheel(s) if the service brake system has been altered by removing or disconnecting any of the brake system components from any of the wheels.

3. Any motorcycle manufactured after July 1, 1974, is not equipped with either a split service brake system or two

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# Regulations

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independently actuated service brake systems which shall act on the front as well as the rear wheel or wheels.

4. Bonded linings or disc pads are worn to less than 2/32 of an inch in thickness or riveted linings or disc pads are worn to less than 2/32 of an inch over the rivet head(s).

5. Any lining is broken or cracked so that the lining or parts of the lining are not firmly attached to the shoe or disc pad.

6. Grease or any other contamination ~~cannot be satisfactorily removed from~~ is present on the lining or disc pad.

7. Rivets in riveted linings or disc pads are loose or missing.

8. A brake drum or brake disc (rotor) is scored to the extent that it impairs the braking system.

9. A brake drum or brake disc is worn beyond the manufacturer's recommended limit. (A brake drum or brake disc shall under no circumstances be re-machined beyond the manufacturer's specifications.)

10. Rods are bent, cotter keys or lock nuts are missing, cables frayed or broken or parts misaligned.

11. When operated at 20 miles per hour on a dry, level, hard surface free from loose material, the brakes will not stop the motorcycle within 30 feet.

12. Levers (foot and hand) do not have at least 1/3 of their travel as reserve after brakes are fully applied.

13. Any leaks in master cylinder, wheel cylinders, or any brake hoses or lines.

14. A motorcycle that is equipped with a front and rear master cylinder, if one or both are not displaying the recommended manufacturer fluid level.

15. Any line or hose not installed so as to prevent damage or abrasion by contact with the frame or other components. There is any leakage in any hydraulic, air, or vacuum lines; hoses have any cracks, crimps, restrictions, or are abraded exposing fabric; tubing or connections leak, are crimped, restricted, cracked or broken; any valves leak or are inoperative. Reject the vehicle if the brake hoses or tubing are stretched or extended and do not allow for suspension movement. Brake tubing and hoses must:

a. Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;

b. Be secured against chaffing, kinking, or other mechanical damage; and

c. Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures.

## **19VAC30-70-350. Motorcycle airbag, seat, steering, and suspension.**

Inspect for and reject if:

1. Frame is bent or damaged so as to constitute a hazard in proper operation.

2. Wheels are out of line to a degree steering and control is affected.

3. Steering-head bearing is loose, broken, defective or out of adjustment.

4. Handlebars are loose, bent, broken or damaged in such a manner as to affect proper steering.

5. Shock absorbers are broken, worn, missing, defective, disconnected or do not function properly.

6. Any spring in the suspension system is broken or sagging.

7. If motorcycle seat or seats are not securely fastened.

8. Any motorcycle designed to carry more than one person is not equipped with a footrest for each passenger.

9. The ~~storage~~ battery is not attached to a fixed part of the motorcycle ~~or~~ and protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment. This includes all brackets, hardware, bolts, and bushings used for securely mounting the ~~storage~~ battery to the motorcycle.

a. Removable covers or enclosures shall be substantial and shall be securely latched or fastened.

b. The ~~storage~~ battery compartment shall have openings to provide ample battery ventilation and drainage.

c. 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.

d. Whenever a battery and a fuel tank are both placed under the driver's seat, they shall be partitioned from each other and each compartment shall be provided with an independent cover, ventilation, and drainage.

10. Air bag and air bag readiness light. Inspect for and reject if:

a. Any defects in the air bag system are noted by the air bag readiness light or otherwise indicated;

b. The air bag has been deployed and has not been replaced (and is not deactivated because of a medical or other exemption and a notice is posted to indicate that it has been deactivated);

c. Any part of the air bag system has been removed from the motorcycle; or

d. If the air bag indicator fails to light or stays on continuously.

NOTE: Checking the air bag readiness light. Turn the ignition key to the on position; the air bag readiness light will indicate normal operation by lighting for six to eight seconds, then turning off.

A system malfunction is indicated by the flashing or continuous illumination of the readiness light or failure of the light to turn on.

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

~~Part IV~~

~~Inspection Requirements for Motorcycles~~

**19VAC30-70-360. Motorcycle lights: headlamp, rear, signal, warning.**

A. 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(s), 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.

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: 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.~~

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 high beam indicator does not burn when the high ~~or "country"~~ beam is on or does not go off when the low beam is on.
2. Motorcycle is not equipped with a rear lamp of approved type SAE-T-S-P-A).
3. Lamp is not mounted near rear of vehicle, or is not mounted securely, or if lamp does not make a good electrical connection.
4. 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 crack(s).

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

5. Filaments in all lamps do not burn when headlamp switch is turned on to any position.
6. The rear license plate is not illuminated by an approved license plate ~~lamp 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 ~~plate 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

# Regulations

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 for a duration of not more than five seconds 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 and 2 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.

## **19VAC30-70-390. Motorcycle muffler and exhaust system.**

INSPECT FOR AND REJECT IF: Inspect for and reject if:

- 1. Vehicle has no exhaust line or tailpipe if the system is designed for same.
- 2. A muffler has been repaired with a jacket, a patch or in any other manner.
- 3. Vehicle has installed a muffler cutout or bypass.
- 4. Any components of the exhaust system are not properly secured.
- 5. Leakage of gases is noted at manifold gaskets, muffler and muffler connections, or at any point in the exhaust line.
- 6. Tailpipe opening is pinched or mashed.

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.

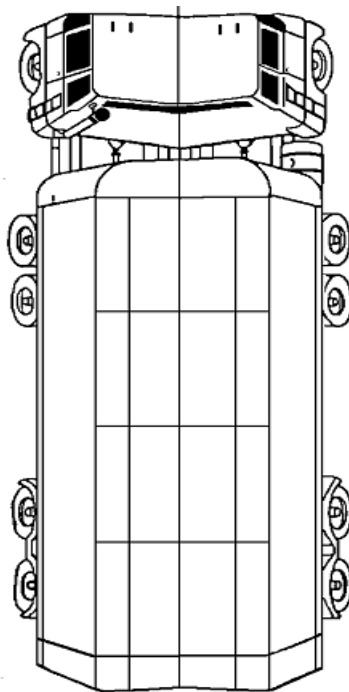
## Part V

### Inspection Requirements for Trucks and Other Vehicles Over 10,000 Pounds (GVWR)

#### **19VAC30-70-430. Inspection procedure -- heavy vehicles.**

##### A. Inspection procedure -- heavy vehicles:

- 1. Remove existing inspection sticker (all vehicles).
- 2. While in right front, inspect right side glass and right side lug nuts, windshield, seat belts, and door latches.
- 3. Drive vehicle into inspection lane.
- 4. While in driver's seat, check left side glass and window crank, windshield, driver's seat, seat belts, door latches and parking or holding brake. Check service brake, high beam indicator, turn signal switch, air brake low air warning, air pressure loss, (single/combo) horn, windshield wiper, defroster, mirrors, steering lash and floor pan.
- 5. Check exhaust system and fuel tank.
- 6. Check right side marker and clearance reflectors.
- 7. Check all rear lights (including brake and turn signal). Check all rear reflectors.



- 8. Check left side marker, clearance lights and reflectors.
- 9. Check all wheels for brakes, push rod travel, tires, rims and suspension.
- 10. Check headlights, fog, driving, turn signals, other lights and reflectors.
- 11. Check steering system, ball joints/king pin, shocks, springs.
- 12. Open hood and check latching mechanism, master cylinder, engine mounts, and compressor belts.
- 13. Check frame (all vehicles) and coupling device.
- 14. Check air lines and couplings. Disconnect emergency air line (red) (left) and check for automatic operation of trailer breakaway brakes. Check tractor air protection valve. (Combination vehicle only).
- 15. Issue approval or rejection sticker.

B. Inspection guidelines. Required lamps and reflectors on commercial vehicles.

Lamps and reflex reflectors. Table 1 specifies the requirements for lamps, reflective devices and associated equipment by the type of commercial motor vehicle. The diagrams in this section illustrate the position of the lamps, reflective devices and associated equipment specified in Table 1. All commercial motor vehicles manufactured on or after December 25, 1968, must, at a minimum, meet the applicable requirements.

Table 1 Required Lamps and Reflectors on Commercial Motor Vehicles <u>Greater Than 26,000 Pounds GVWR</u>						
Item on the vehicle	Quantity	Color	Location	Position	Height above the road surface in millimeters (mm) (with English units in parenthesis) measured from the center of the lamp at curb weight	Vehicles for which the devices are required
Headlamps	2	White	Front	On the front at the same height, with an equal number at each side of the vertical center line as far apart as practicable.	Not less than 559 mm (22 inches) nor more than 1,372 mm (54 inches)	A, B, C
Turn signal (front) <sup>2, 12</sup>	2	Amber	At or near the front	One on each side of the vertical centerline at the same height and as far apart as practicable.	Not less than 381 mm (15 inches) nor more than 2,108 mm (83 inches.)	A, B, C
Identification lamps (front) <sup>1</sup>	3	Amber	Front	As close as practicable to the top of the vehicle, at the same height, and as close as practicable to the vertical centerline of the vehicle (or the vertical centerline of the cab where different from the centerline of the vehicle) with lamp centers spaced not less than 152 mm (6 inches) or more than 305 mm (12 inches) apart. Alternatively, the front lamps may be located as close as practicable to the top of the cab.	All three on the same level as close as practicable to the top of the motor vehicle.	B, C

# Regulations

Tail lamps <sup>5, 11</sup>	2	Red	Rear	One lamp on each side of the vertical centerline at the same height and as far apart as practicable.	Both on the same level between 381 mm (15 inches) and 1,829 mm (72 inches).	A, B, C, D, E, F, G, H
Stop lamps <sup>5, 13</sup>	2	Red	Rear	One lamp on each side of the vertical centerline at the same height and as far apart as practicable.	Both on the same level between 381 mm (15 inches) and 1,829 mm (72 inches).	A, B, C, D, E, F, G
Clearance lamps <sup>8, 9, 10, 15, 17</sup>	2	Amber	One on each side of the front of the vehicle	One on each side of the vertical centerline to indicate overall width.	Both on the same level as high as practicable.	B, C, D, G, H
	2	Red	One on each side of the rear of the vehicle	One on each side of the vertical centerline to indicate overall width.	Both on the same level as high as practicable.	B, D, G, H
Reflex reflector, intermediate (side)	2	Amber	One on each side	At or near the midpoint between the front and rear side marker lamps, if the length of the vehicle is more than 9,144 mm (30 feet).	Between 381 mm (15 inches) and 1,524 (60 inches).	A, B, D, F, G
Reflex reflector (rear) <sup>5, 6, 8</sup>	2	Red	Rear	One on each side of the vertical centerline, as far apart as practicable and at the same height.	Both on the same level, between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, C, D, E, F, G
Reflex reflector (rear side)	2	Red	One on each side (rear)	As far to the rear as practicable.	Both on the same level, between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, D, F, G
Reflex relector (front side) <sup>16</sup>	2	Amber	One on each side (front)	As far to the front as practicable.	Between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, C, D, F, G
License plate lamp (rear) <sup>11</sup>	1	White	At rear license plate to illuminate the plate from the top or sides	As far to the front as practicable.	No requirements	A, B, C, D, F, G



# Regulations

Side marker lamp (front) <sup>16</sup>	2	Amber	One on each side		Not less than 381 mm (15 inches).	A, B, C, D, F
Side marker lamp intermediate	2	Amber	One on each side	At or near the midpoint between the front and rear side marker lamps, if the length of the vehicle is more than 9,144 mm (30 feet).	Not less than 381 mm (15 inches).	A, B, D, F, G
Side marker lamp (rear) <sup>4, 8</sup>	2	Red	One on each side	As far to the rear as practicable.	Not less than 381 mm (15 inches), and on the rear of trailers not more than 1,524 mm (60 inches).	A, B, D, F, G
Turn signal (rear) <sup>5, 12</sup>	2	Amber or red	Rear	One lamp on each side of the vertical centerline as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A, B, C, D, E, F, G
Identification lamp (rear) <sup>3, 7, 15</sup>	3	Red	Rear	One as close as practicable to the vertical centerline. One on each side with lamp centers spaced not less than 152 mm (6 inches) or more than 305 mm (12 inches) apart.	All three on the same level as close as practicable to the top of the vehicle.	B, D, G
Vehicular hazard warning signal flasher lamps <sup>5, 12</sup>	2	Amber	Front	One lamp on each side of the vertical centerline, as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A, B, C
	1 or 2	Amber or red	Rear	One lamp on each side of the vertical centerline, as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A, B, C, D, E, F, G
Backup lamp <sup>14</sup>	1 or 2	White	Rear	Rear	No requirement	A, B, C
Parking lamp	2	Amber or white	Front	One lamp on each side of the vertical centerline, as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A

Legend: Types of commercial motor vehicles shown in the last column of Table 1:

A. Buses and trucks less than 2,032 mm (80 inches) in overall width.

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# Regulations

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- B. Buses and trucks 2,032 mm (80 inches) or more in overall width.
- C. Truck tractors.
- D. Semi-trailers and full trailers 2,032 mm (80 inches) or more in overall width except converter dollies.
- E. Converter dolly.
- F. Semi-trailers and full trailers less than 2,032 mm (80 inches) in overall width.
- G. Pole trailers.
- H. Projecting loads.

Note: Lamps and reflectors may be combined as permitted by equipment combinations.

## NOTES:

<sup>1</sup>Identification lamps and reflectors may be mounted on the vertical centerline of the cab where different from the centerline of the vehicle, except where the cab is not more than 42 inches wide at the front roofline, then a single lamp at the center of the cab shall be deemed to comply with the requirements for identification lamps. No part of the identification lamps or their mountings may extend below the top of the vehicle windshield.

<sup>2</sup>Unless the turn signals on the front are so constructed (doubled-faced) and located as to be visible to passing drivers, two turn signals are required on the rear of the truck tractor, one at each side as far apart as practicable.

<sup>3</sup>The identification lamps need not be visible or lighted if obscured by a vehicle in the same combination.

<sup>4</sup>Any semitrailer or full trailer manufactured on or after March 1, 1979, shall be equipped with rear side-marker lamps at a height of not less than 381 mm (15 inches), and on the rear of the trailers not more than 1,524 mm (60 inches) above the road surface, as measured from the center of the lamp on the vehicle at curb weight.

<sup>5</sup>Each converter dolly, when towed singly by another vehicle and not as part of a full trailer, shall be equipped with one stop lamp, one tail lamp, and two reflectors (one on each side of the vertical centerline, as far apart as practicable) on the rear. Each converter dolly shall be equipped with rear turn signals and vehicular hazard warning signal flasher lamps when towed singly by another vehicle and not as part of a full trailer, if the converter dolly obscures the turn signals at the rear of the towing vehicle.

<sup>6</sup>Pole trailers shall be equipped with two reflex reflectors on the rear, one on each side of the vertical centerline as far as practicable, to indicate the extreme width of the trailer.

<sup>7</sup>Pole trailers, when towed by motor vehicles with rear identification lamps and mounted at a height greater than the load being transported on the pole trailer, are not required to have rear identification lamps.

<sup>8</sup>Pole trailers shall have on the rearmost support for the load: (1) two front clearance lamps, one on each side of the vehicle, both on the same level and as high as practicable to indicate the overall width of the pole trailer; (2) two rear clearance lamps, one on each side of the vehicle, both at the same level and as high as practicable to indicate the overall width of the pole trailer; (3) two rear side marker lamps, one on each side of the vehicle, both on the same level, not less than 375 mm (15 inches) above the road surface; (4) two rear reflex reflectors, one on each side, both on the same level, not less than 375 mm (15 inches) above the road surface to indicate maximum width of the pole trailer; and (5) one red reflector on each side of the rearmost support for the load. Lamps and reflectors may be combined.

<sup>9</sup>Any motor vehicle transporting a load that extends more than 102 mm (4 inches) beyond the overall width of the motor vehicle shall be equipped with the following lamps in addition to other required lamps when operated during the hours when headlamps are required to be used.

(1) The foremost edge of that portion of the load that projects beyond the side of the vehicle shall be marked (at its outermost extremity) with an amber lamp visible from the front and side.

(2) The rearmost edge of that portion of the load that projects beyond the side of the vehicle shall be marked (at its outermost extremity) with a red lamp visible from the rear and side.

(3) If the projecting load does not measure more than 914 mm (3 feet) from front to rear, it shall be marked with an amber lamp visible from the front, both sides, and rear, except that if the projection is located at or near the rear it shall be marked by a red lamp visible from front, side, and rear.

<sup>10</sup>Projections beyond rear of motor vehicles. Motor vehicles transporting loads that extend more than 1,219 mm (4 feet) beyond the rear of the motor vehicle, or that have tailboards or tailgates extending more than 1,219 mm (4 feet) beyond the body, shall have these projections marked as follows when the vehicle is operated during the hours when headlamps are required to be used:

(1) On each side of the projecting load, one red side marker lamp, visible from the side, located so as to indicate maximum

overhang.

(2) On the rear of the projecting load, two red lamps, visible from the rear, one at each side; and two red reflectors visible from the rear, one at each side, located so as to indicate maximum width.

<sup>11</sup>To be illuminated when tractor headlamps are illuminated.

<sup>12</sup>Every bus, truck, and truck tractor shall be equipped with a signaling system that, in addition to signaling turning movements, shall have a switch or combination of switches that will cause the two front turn signals and the two rear signals to flash simultaneously as a vehicular traffic signal warning. The system shall be capable of flashing simultaneously with the ignition of the vehicle on or off.

<sup>13</sup>To be actuated upon application of service brakes.

<sup>14</sup>Backup lamp required to operate when bus, truck, or truck tractor is in reverse.

<sup>15</sup>(1) For the purposes, the term "overall width" refers to the nominal design dimension of the widest part of the vehicle, exclusive of the signal lamps, marker lamps, outside rearview mirrors, flexible fender extensions, and mud flaps.

(2) Clearance lamps may be mounted at a location other than on the front and rear if necessary to indicate the overall width of a vehicle, or for protection from damage during normal operation of the vehicle.

(3) On a trailer, the front clearance lamps may be mounted at a height below the extreme height if mounting at the extreme height results in the lamps failing to mark the overall width of the trailer.

(4) On a truck tractor, clearance lamps mounted on the cab may be located to indicate the width of the cab, rather than the width of the vehicle.

(5) When the rear identification lamps are mounted at the extreme height of a vehicle, rear clearance lamps are not required to be located as close as practicable to the top of the vehicle.

<sup>16</sup>A trailer subject to this part that is less than 1,829 mm (6 feet) in overall length, including the trailer tongue, need not be equipped with front side marker lamps and front side reflex reflectors.

<sup>17</sup>A boat trailer subject to this part whose overall width is 2,032 mm (80 inches) or more need not be equipped with both front and rear clearance lamps provided an amber (front) and red (rear) clearance lamp is located at or near the midpoint on each side so as to indicate its extreme width.

**19VAC30-70-450. Brakes: emergency parking or holding.**

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) 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.

NOTE: The ~~storage~~ battery shall be attached to a fixed part of the motor vehicle ~~or~~ and protected by a removable cover or enclosure if the battery is installed in a location other than the engine compartment. This includes all brackets, hardware, bolts, and bushings used for securely mounting the ~~storage~~ battery to the vehicle.

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# Regulations

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1. Removable covers or enclosures shall be substantial and shall be securely latched or fastened.
2. The ~~storage~~ battery compartment shall have openings to provide ample battery ventilation and drainage.
3. 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.
4. Whenever a battery and a fuel tank are both placed under the driver's seat, they shall be partitioned from each other, and each compartment shall be provided with an independent cover, ventilation, and drainage.

## **19VAC30-70-460. Brakes: trailer (GVWR 10,000 pounds or more).**

A. All trailers and semitrailers ~~registered for or~~ having an actual gross weight of 10,000 pounds or more shall be equipped with operational brakes acting on all wheels.

B. Inspect for and reject if:

1. Trailer brakes do not comply with provisions of 19VAC30-70-430, 19VAC30-70-440 and 19VAC30-70-450.
2. Operator does not have full control over brakes. For the purpose of this subdivision, surge brakes are considered to be in control of the operator.
3. Combination will not stop as required in 19VAC30-70-440 D 5.
4. Trailers are not equipped with emergency breakaway brakes designed to:
  - a. Apply automatically upon breakaway from towing vehicle.
  - b. Remain fully applied for at least 15 minutes.
  - c. Apply and release by operation of the manual emergency control.
  - d. Apply automatically when the pressure in the towing vehicle reservoir is reduced to a point between 45 and 20 PSI by a series of foot applications, when equipped with air brakes.

NOTE: A minimum of one wheel must be removed from each axle equipped with brakes to inspect the brake components.

Exceptions:

- a. Wheels on trailers equipped with open brake mechanisms are not required to be removed.
- b. The inspection receipt (approval and rejection) shall be marked to reflect which wheel, drum or dust cover was removed or inspected.

### Part ~~V~~ VI

Inspection Requirements for Vehicles Over 10,000 Pounds

## **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 should 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) or steel cable(s).

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.

## **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," or "For Off-Highway Use Only," or any tire marked "Not for Steering Axle" or "For Mobile Home use 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 ~~or less~~ 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 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

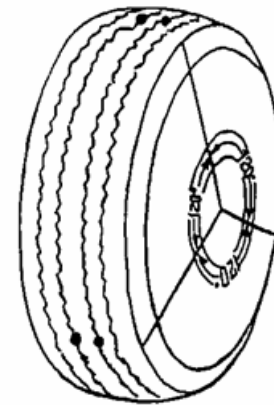


FIGURE 1

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

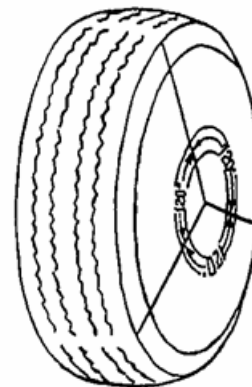


FIGURE 2

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 shall be in the tread area only. Plugs/patches are not permitted in the sidewall of the tire.

# Regulations

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 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) on a steering axle or any welded repair (other than disc to rim attachment) on steel drive wheel(s) mounted on the steering axle.
18. Directional tires and/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 BHCS 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 an 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

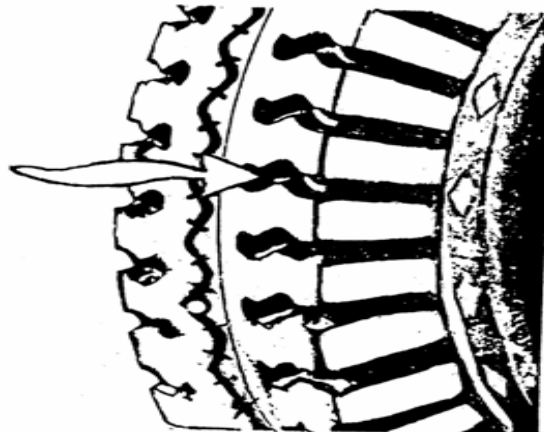
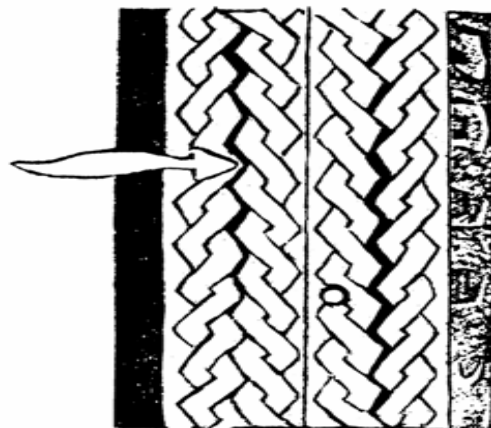
Grooves in the tread design molded through the complete thickness of the tread rubber running around and/or across the tire surface.

### ○ MINOR TREAD GROOVE

Remaining tire tread design other than major tread grooves.

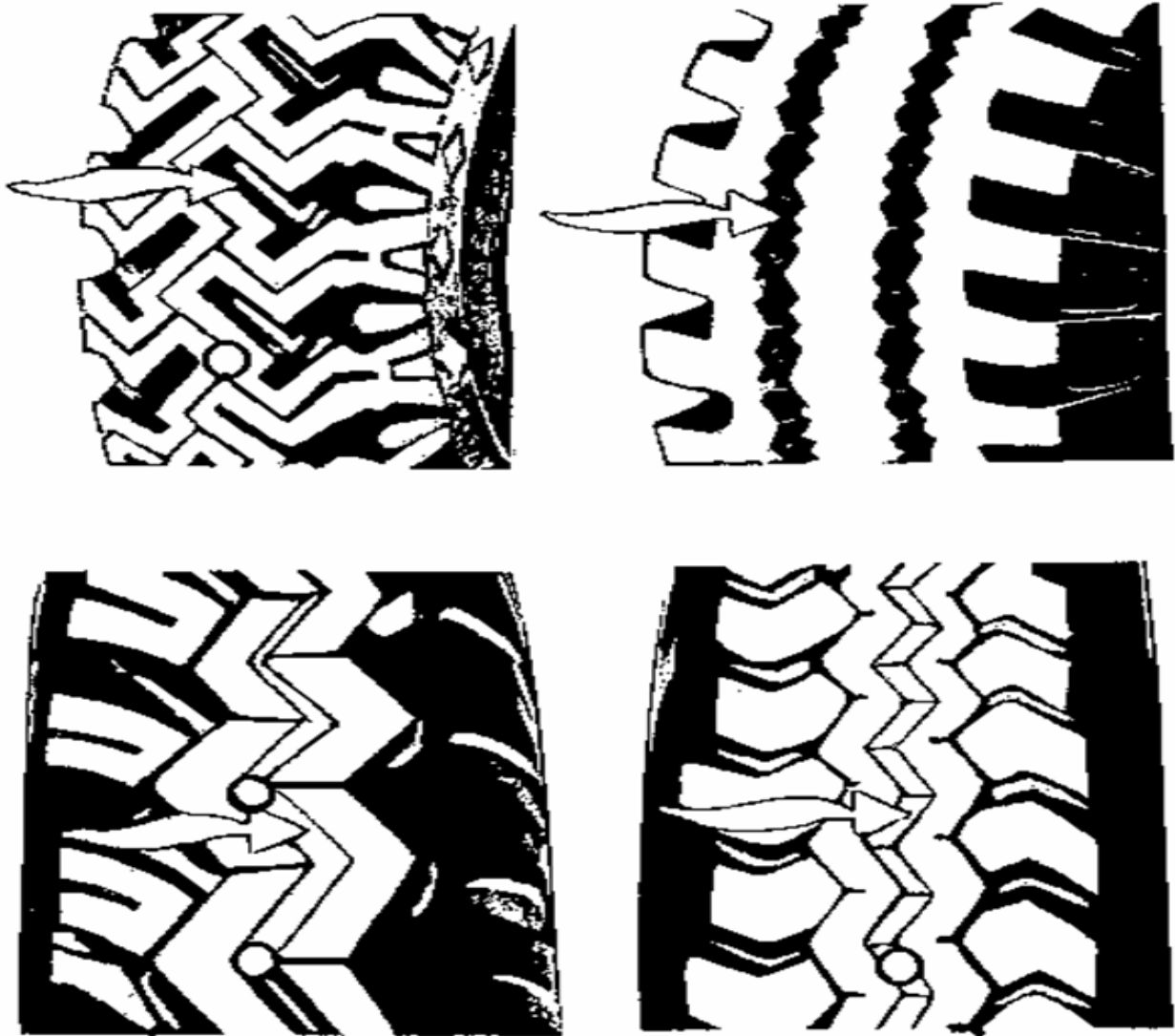
### ⊙ TIE-BAR

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 headlamps of an approved type. The approval designation letter that must appear is DOT or SAE H, HG, HH or HR. 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.
2. Headlights are not of the same approved type (Halogen, HID, etc.) except sealed beam headlamps. At least two headlamps are required.
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. ~~A clear plastic headlight assembly lens with a crack may be repaired by procedures similar to that required of a windshield repair. The inside reflector surface must be in satisfactory condition and the repair cannot effect the headlight aim pattern when checked with an approved headlight aiming machine. This repair does not apply to headlamps and headlamp assembly lenses that are designed where the aiming pattern is part of the lens.~~

4. Moisture or water buildup in headlamp is such that it affects the aiming pattern.

5. Lens is other than clear. 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 (~~must have DOT stamp and the manufacturer's name~~) or are over 32

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# Regulations

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~~candlepower. (Sealed beam lamps including the ones that permit the use of a replacement halogen bulb are the only lamps approved with over 32 candlepower.) Ordinary lenses and reflectors were not designed for over 32 candlepower bulbs. NOTE: The Sylvania 9003 (HB2), 9004 (HB1), 9005 (HB3) and 9006 (HB4) Cool Blue xenon bulbs were found to comply with FMVSS 108. There is a noticeable blue tint around the outside of the lamp pattern but the concentrated light is white. Only the Sylvania has approval and is marked with DOT and marked with all of the following: light source type, the manufacturer's name or trade mark, and DOT.~~

~~- Approved headlamp bulbs: HB1, HB2, HB3, HB3A, HB4, HB4A, HB5, H1, H3, H7, H8, H8B, H9, H9B, H11, H11B, H11C, H13, H13C, H15, HIR1, HIR2.~~

~~- Approved headlamp bulbs that require ballast: 9500, D1R, D1S, D2R, D2S, D3R, D3S, D4R, D4S, D5S, D7S, D8S.~~

~~- 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.

a. 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.

b. 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.

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 or "country" 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~~ 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 either an optical or a mechanical headlamp aimer on every motor vehicle inspected.

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~~ 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:

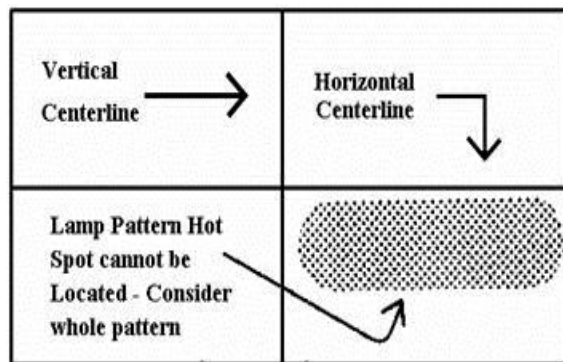


To properly aim a combination ~~multi-element~~ multi-element or low beam VOL or VOR headlamp assembly, the headlamp pattern should be aimed on low beam only.

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.

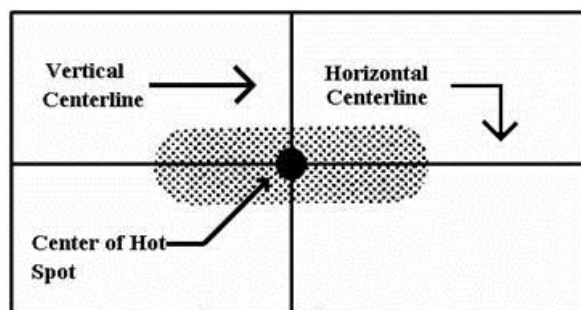


PATTERN A - TYPE 2 LAMP

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.

**Mechanical Aimers:**

~~NOTE: Mechanical aimers can be used to aim only those headlamps that have "aiming" pads molded into the lens.~~

~~NOTE: Mechanical aimers must be properly calibrated and used in the manner recommended by the manufacturer.~~

~~NOTE: Turn on headlamps and check all filaments both high and low beam. Turn off headlamps before checking for adjustments. Do not turn on headlamps while mechanical aimers are attached to the headlamp.~~

**Aiming the Headlamps (Mechanical Aimer):**

NOTE: All headlamps that are found not to be within the 4 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:**

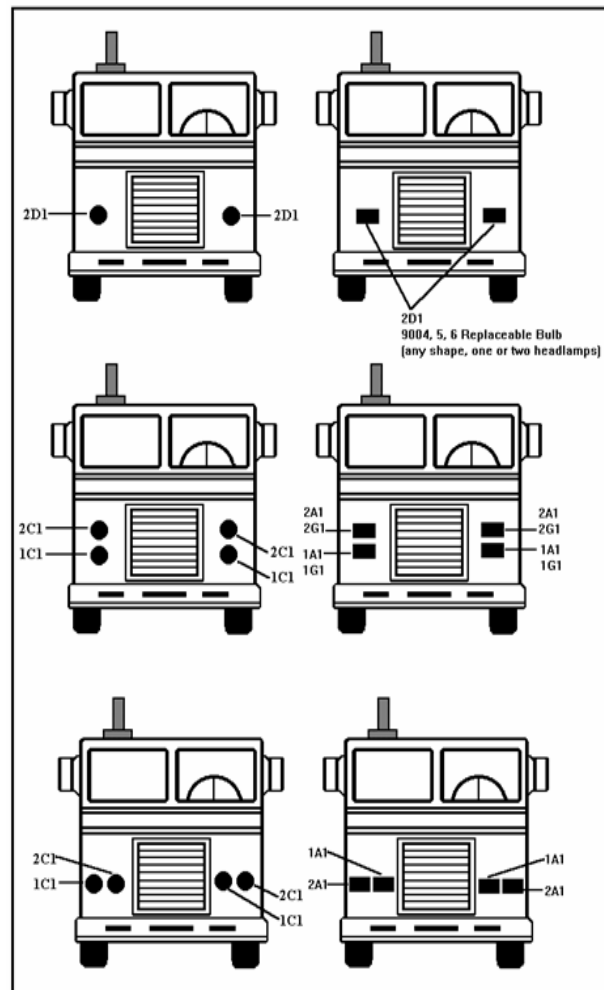
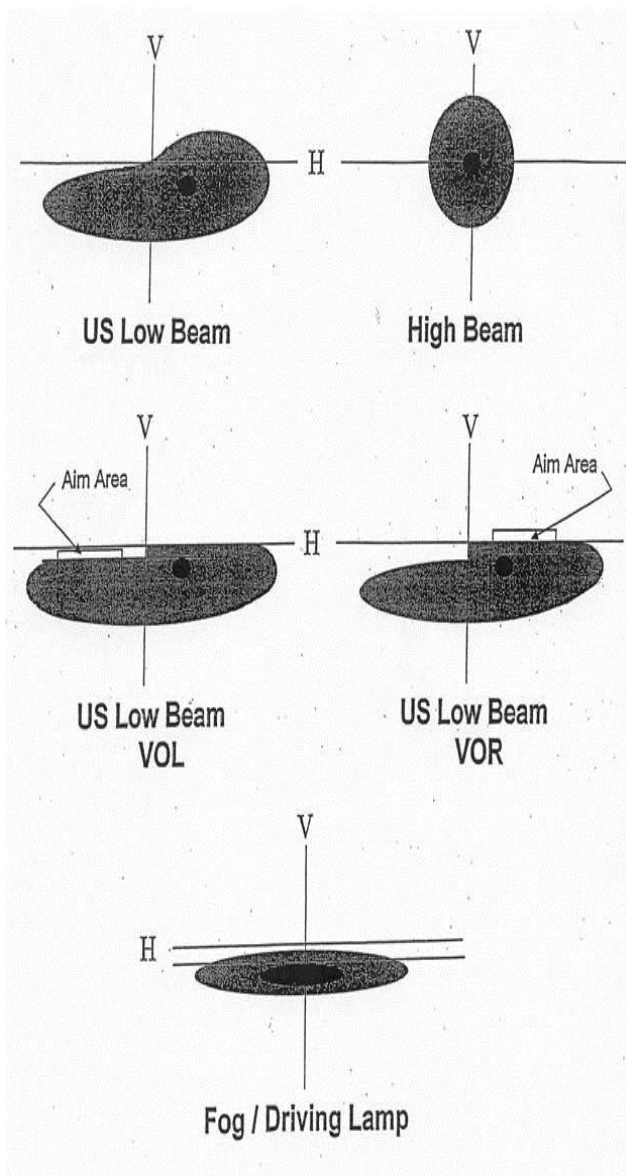
NOTE: Approved auxiliary headlamps (SAE-Z) may be mounted above the conventional headlamps. (These lamps must be in compliance with 19VAC30-70-140, in its entirety, 19VAC30-70-150, subdivision 7, and 19VAC30-70-170, subsection A, of this manual.)

**B. Inspect for and reject if:**

1. Lamps are not an approved type headlamps 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.

# Regulations

## HEADLAMP PATTERNS



NOTE: ALWAYS inspect the following sealed beam and replacement bulb headlamps on LOW BEAM only:

- 5-3/4 inch, marked Type 2 or 2C1
- 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

### 19VAC30-70-530. 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) 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 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 fire fighting, 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~~ superintendent. Any government-owned police vehicle may be equipped with clear auxiliary lamps of a type approved by the ~~Superintendent~~ 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

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# Regulations

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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) 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) 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 fire-fighting vehicles by any speedway or motor vehicle race track.
4. An approved type (DOT or 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, fire-fighting, 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) 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 or 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) 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) 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) 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.

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# Regulations

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## **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.

~~Trailers of 80 inches or more overall width, and with a GVWR over 10,000 pounds, manufactured on or after December 1, 1993, except pole trailers and trailers designed exclusively for living or office use, shall be equipped with either retroreflective sheeting, reflex reflectors, or a combination of retroreflective sheeting and reflex reflectors.~~

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.

Reject if the lamps or reflectors have unapproved plastic covers, any other materials that are not original equipment or any colored material placed on or in front of lamps or reflectors.

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 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 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 equipped with a multiple LED 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 ~~clearance~~ side marker lamps on the side of the vehicle. When such an installation is used, all of the ~~clearance~~ side marker lamps on the side except the one at or near the rear must have an amber lens. The ~~clearance~~ 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~~ superintendent and mounted on the widest part of the towed vehicle so as to be visible from the front and sides of

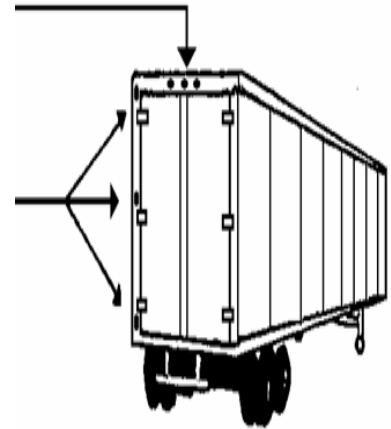
the vehicle. No reflector can have a piece broken from its reflective surface, but may have one or more cracks.

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.)

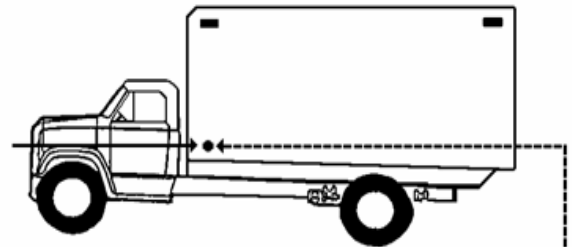
NOTE: Vehicles so constructed as to make compliance with the requirements of subdivisions 1, 5, 7, 9 and 10 of this section impractical, will be equipped with clearance lamps and reflectors at the most practical location to provide maximum visibility.

9. Any vehicle is not equipped with: two front side marker lights (amber), two rear side marker lights (red), and two rear reflectors (red).

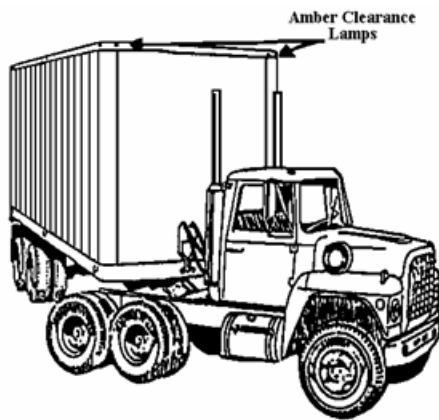
If equipped with three red identification lamps, the required clearance lamps may be mounted at any height so long as they indicate, as nearly as practicable, the extreme width of the vehicle.



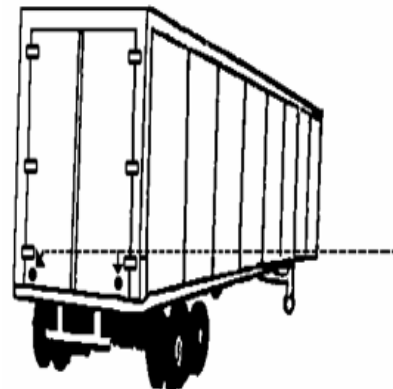
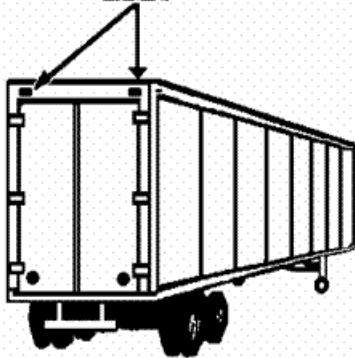
ILLUSTRATIONS FOR PROPER INSTALLATION OF REFLECTORS



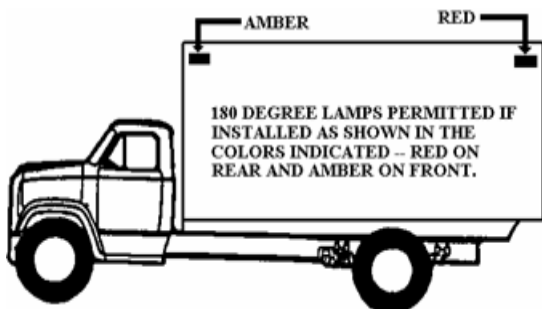
Amber Reflector -- At least 15 inches but not more than 60 inches from the ground



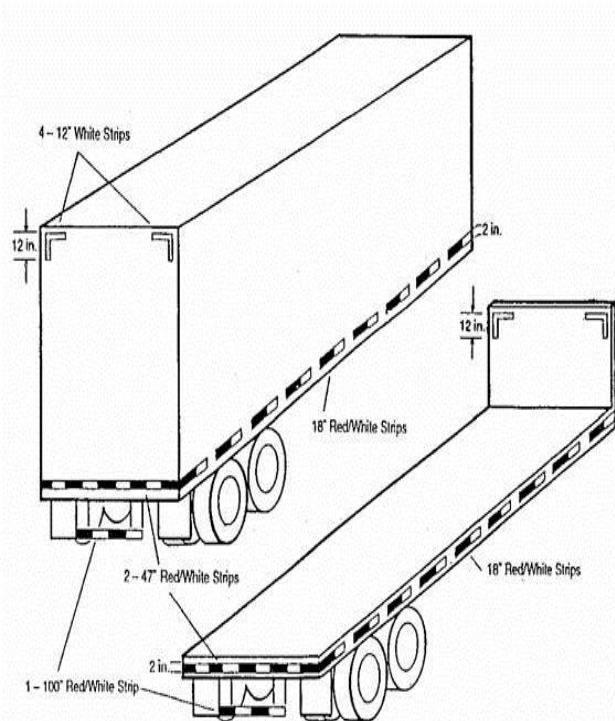
RED CLEARANCE LAMPS



Red Reflectors -- At least 15 inches and not more than 60 inches from the ground



# Regulations



\*NOTE: Suggested application meets the requirements for Vehicle Conspicuity as outlined by NHTSA in the December 1992 Final Ruling.

## 19VAC30-70-570. Permissible lighting equipment.

A. Any vehicle may be equipped with:

1. Running board or courtesy lamps, of not over six candlepower.
2. Vacant or destination signs, if a taxicab or bus.
3. Identification lamps of approved type (SAE-P2 or P3).
4. Interior lights. (Not more than 15 candlepower.)

Exception: This does not apply to alternating, blinking or flashing colored emergency lights mounted inside law-enforcement vehicles or flashing shielded red or red and white lights, mounted inside vehicles owned or used by members of volunteer fire companies, volunteer rescue squads or owned or used by professional firefighters, or police chaplains. Also, this does not apply to firefighting vehicles equipped with map lights.

5. A motor vehicle having a GVWR of 10,001 pounds or more may be equipped with an illuminated bumper guide attached to each end of the front bumper, provided:
  - a. The light thereon is amber in color and less than 6 candlepower.
  - b. The light is wired to burn only in conjunction with the marker or clearance lamps on the vehicle.
6. Any approved lamp in good working order when used for the purpose for which it was approved.

~~B. Side marker lamps are not required if the vehicle(s) is over 30 feet in length. If installed they must operate and be inspected. If the bulb, socket and wiring are removed from an individual lamp unit, the unit will not be considered during inspection. This does not include a wraparound tail/marker lamp assembly/lens that are intended to perform multiple functions.~~

B. Inspect for and reject if:

1. Lamps are not of an approved type (DOT or SAE-P2, P3, PC), or do not comply with subsection A of this section.
2. Lamps are not installed on the permanent structure of the vehicle with one as far to the rear and one as far forward as practicable and at a location which is not less than 15 inches above the road surface when measured from the center of the lamp.
3. Lamps installed on the side to the rear do not project a red light and lamps installed on the front do not project an amber light.
4. Lens has a piece broken from it. The lens may have one or more cracks provided no off-color light projects through the crack(s).
5. Wiring or electrical connections are defective or filaments do not burn.
6. Any vehicle has unapproved lens or plastic covers, any other materials that are not original equipment or any colored material placed on or in front of permissible lighting equipment.

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

## 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 which 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 (DOT and AS-1, AS-2, or AS-3). (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 but is not limited to large objects hanging from the inside mirror, CB radios or tachometers on the dash, 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 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.

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~~ superintendent. Authorization is hereby granted for stickers measuring not more than 2-1/2 inches in width and four inches in length to be placed in the blind spot behind the rearview mirror. Department of Defense decals measuring no more than three inches in width and eight inches in length may be affixed to the upper edge of the center of the windshield. At the option of the motor vehicle's owner, the decal may be affixed at the lower left corner of the windshield so that the inside or left edge of the sticker or decal is within one inch of the extreme left edge of the windshield when looking through the windshield from inside the vehicle. When placed at this location, the bottom edge of the sticker or decal must be affixed within three inches of the bottom of the windshield. This location can only be used if the owner of the vehicle has chosen not to place any required county, town or city decal there. The normal location for any required county, town, or city decal is adjacent to the official inspection sticker and must not extend upward more than three inches from the bottom of the windshield. Commercial Vehicle Safety Alliance (CVSA) inspection decals may be placed at the bottom or sides of the windshield provided such decals do not extend more than 4-1/2 inches from the bottom of the windshield and are located outside the area swept by the windshield wipers and outside of the driver's sight line.

Fastoll 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.

Any sticker required by the laws of any other state or 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, 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: Stickers or decals used by counties, cities and towns in lieu of license plates may be placed on the windshield without further authority. Except on privately owned yellow school buses, the sticker or decal shall be placed on the windshield adjacent to the right side of the official inspection sticker or the optional placement to the extreme lower left side of the windshield. The top edge of

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# Regulations

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the sticker or decal shall not extend upwards more than three 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 looking through the windshield from inside the vehicle. However, at the option of the motor vehicle owner, the sticker or decal may be affixed to the upper edge of the center of the windshield. (Any expired sticker or decal, excluding a rejection sticker, that is present on the windshield at the time of inspection shall not be issued an approval sticker unless the owner/operator "authorizes" its removal. A rejection sticker will be issued versus an involuntary removal.) On privately owned yellow school buses, the sticker or decal shall be placed on the windshield adjacent to the left side of the official inspection sticker, and not more than 1/4 inch from the official inspection sticker when looking through the windshield from inside the vehicle. The top edge of the sticker shall not extend upward more than three inches from the bottom of the windshield.

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 ~~raised or~~ lowered easily so a hand signal can be given. (This does not apply to vehicle equipped with approved turn signals which were not designed and/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/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.

## **19VAC30-70-660. Seat belts.**

### A. Definitions:

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

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

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

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

"GVWR" means gross vehicle weight rating as specified by the manufacturer (loaded weight of a single vehicle.)

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

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

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

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

**B. Passive Restraint System:**

Inflatable occupant restraint (commonly known as air bags).

Passive belt system (automatic deployment around the occupant after the occupant enters the vehicle and closes the door).

Inspect for and reject if:

1. Not of an approved type.
2. Installation not in compliance as follows:
  - a. All motor vehicle seat belt anchorages and attachment hardware must meet the standards and specifications set forth by the Society of Automotive Engineers, Inc., and Federal Motor Vehicle Safety Standard Number 209, for such anchorages and attachment hardware.
  - b. Any questions concerning the proper installation of seat belt assemblies should be directed to the nearest Safety Division office.
3. Any of the following motor vehicles manufactured on or after July 1, 1971, not having a lap seat belt assembly for each designated seating position:
  - a. Open-body type vehicles;
  - b. Walk-in van type trucks;
  - c. Trucks (GVWR in excess of 10,000 pounds);
  - d. Multipurpose passenger vehicles (GVWR in excess of 10,000 pounds).
4. Any buses manufactured on or after July 1, 1971, not having a lap seat belt assembly for the driver's seating position.

5. All other motor vehicles manufactured on or after January 1, 1976, except those for which requirements are specified in subdivisions 3 and 4 of this subsection, not having lap/shoulder or harness seat belt assemblies installed for each front outboard designated seating position.

Those vehicles originally equipped and sold by the manufacturer with only a lap belt installed for each designated seating position, in compliance with Federal Motor Vehicle Safety Standards, will be deemed to be in compliance with this section.

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

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

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

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

**C. Air bag and air bag readiness light. Inspect for and reject if:**

1. Air bag. Any defects in the air bag system are noted by the air bag readiness light or otherwise indicated;

2. The air bag has been deployed and has not been replaced (and is not deactivated because of a medical or other exemption and a notice is posted to indicate that it has been deactivated);

3. Any part of the air bag system has been removed from the vehicle; or

4. If the air bag indicator fails to light or stays on continuously.

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

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

**APPENDIX A. GOVERNOR'S PROCLAMATION (Repealed.)**

~~The successful administration of the Virginia traffic safety program is dependent to a large extent upon the proper mechanical maintenance of motor vehicles, trailers or semi-~~

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# Regulations

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~~trailers which operate over the streets and highways of Virginia.~~

~~Motor vehicles, trailers or semi-trailers inspected under this Proclamation which continue to be registered in and operated upon the highways of this Commonwealth shall be reinspected within twelve months from each month of inspection thereafter. Any motor vehicle, trailer or semi-trailer presently being operated in Virginia which bears a current inspection sticker as of the date of this proclamation shall not be required to be reinspected pursuant to this Proclamation until the current twelve-month period has expired.~~

~~The owner or operator of a motor vehicle, trailer, or semi-trailer subject to this Proclamation shall submit the same to an official inspection station for inspection before operating such motor vehicle, trailer or semi-trailer upon the highways of Virginia, except as follows:~~

- ~~1. Four wheel vehicles weighing less than 500 pounds and having less than six horsepower;~~
- ~~2. Trailers not equipped with brakes;~~
- ~~3. Motor vehicles defined under § 46.2-100 of the Code of Virginia as an antique motor vehicle and licensed as an antique motor vehicle pursuant to the provisions of § 46.2-730 of the Code;~~
- ~~4. Any motor vehicle, trailer or semi-trailer which is outside of the Commonwealth of Virginia at the time its inspection expires may be returned to the owner's or operator's place of residence or the owner's legal place of business in the State before it will be required to be submitted for a reinspection;~~

~~In addition, any truck, tractor truck, trailer or semi-trailer which is outside of the Commonwealth of Virginia at the time its inspection expires may be operated (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 twenty-four hours of entering the Commonwealth, (b) inspected within such twenty-four-hour period, and (c) after being unloaded, will be operated only to an inspection station or to the place where it is kept or garaged within the Commonwealth;~~

~~5. Motor vehicles owned and operated by persons on active duty with the United States Armed Forces, who are Virginia residents stationed outside of Virginia at the time its inspection expires, may operate such vehicle on the highways of the Commonwealth while on leave, provided such vehicle displays a valid inspection sticker issued by another state and not be in violation of § 46.2-1157 of the Code of Virginia;~~

~~6. New motor vehicles, new trailers or new semi-trailers 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 semi-trailers from another dealer or distributor provided a motor vehicle, trailer or semi-trailer 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 semi-trailers bearing a manufacturer's license may be operated for test purposes by the manufacturer without an inspection;~~

~~8. Motor vehicles, trailers or semi-trailers may be operated for test purposes by a certified inspector without an inspection during the performance of an official inspection;~~

~~9. New motor vehicles, new trailers or new semi-trailers may be operated upon the highways of Virginia over the most direct route to a location for installation of permanent body without being inspected;~~

~~10. Motor vehicles, trailers or semi-trailers purchased outside the Commonwealth of Virginia 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 semi-trailers may be operated upon the highways not to exceed a five-mile radius of such auction by prospective purchasers for the purpose of road testing only without being inspected;~~

~~Motor vehicles, trailers or semi-trailers 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 semi-trailers, 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 for such inspection as provided in § 46.2-1157 of the Code of Virginia;~~

~~13. Vehicles 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 by § 46.2-1150 of the Code of Virginia;~~

~~15. Log trailers as exempted by § 46.1-1159 of the Code of Virginia;~~

~~16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes, as exempted by § 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. Any Commercial Motor Vehicle subject to the Federal Motor Carrier Safety Regulations which is registered in the Commonwealth, but domiciled or garaged outside of the State, 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 in any state with a program determined by the Federal Motor Carrier Safety Administration to be comparable to, or as effective as, the requirements of Title 49, Code of Federal Regulations, Part 396, provided documentation is available for inspection by law enforcement officials which verifies the inspection is current. Upon return to the Commonwealth, such vehicle shall be subject to re-inspection in accordance with the provisions of § 46.2-1157 of the Code of Virginia and this Proclamation.~~

Motor vehicles, trailers or semi-trailers not registered in Virginia are not subject to this Proclamation. Accordingly, mopeds as defined in § 46.2-100 and vehicles exempted from licensing under §§ 46.2-662 through 46.2-683 are not required to be inspected.

NOW, THEREFORE, I, James S. Gilmore, III, Governor of the Commonwealth of Virginia, do hereby proclaim that, with the exception of those vehicles specifically exempted heretofore in this document, all motor vehicles, trailers or semi-trailers bearing a Virginia registration plate or plates, or registered as a motor vehicle, trailer or semi-trailer under any provision of Virginia law and operated upon the highways of this Commonwealth shall be submitted to inspection at an official inspection station and shall have corrected all defects thus found to exist.

Given under my hand and under the lesser seal of the Commonwealth, at Richmond, this 7th day of December, in the year of Our Lord, two thousand, and in the two hundred twenty fifth year of the Commonwealth.

/s/ James S. Gilmore, III

Governor

**Part VII**

**Inspection Requirements for Specialty Vehicles**

**19VAC30-70-690. Inspection requirements for specialty vehicles.**

Inspection procedure - converted electric vehicles.

Inspect for and reject if:

1. Any high voltage cables or conduit containing high voltage cables are not completely covered with orange.

NOTE: No high voltage cables may be grounded to the chassis or frame of the vehicle.

2. A breaker or fuse in the high voltage circuit that contains the traction battery pack and the motor controller is not present.

3. An externally mounted switch to open the high voltage circuit in case of an emergency is not present. Such switch must be located where the fuel tank filler cap was located prior to conversion. Any cover protecting the switch must be able to be opened from the outside of the vehicle.

4. Traction batteries are not mounted in secure nonconductive enclosures that provide for limited access. Multiple enclosures may be used but must be connected by high voltage cables encased in conduit made of metal, composite, or other materials of comparable strength, crush, and abrasion resistant to metal or composite.

5. Conduit made of metal, composite, or other materials of comparable strength, crush, and abrasion resistant to metal or composite, encasing any high voltage cable running under or outside of the vehicle is not secured to the vehicle chassis and does not have proper ground clearance.

6. Labeling on three sides of the vehicle identifying such vehicle as "CONVERTED ELECTRIC" is not present on the vehicle. Each label shall be at least six inches long and consist of lettering at least three inches tall.

**NOTICE:** The following 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, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

**FORMS (19VAC30-70)**

Inspection Sticker Inventory Report, Form SP-221 (8/1/94).

Safety Inspector Notification Form (rev. 11/98.)

Mechanics Certification Application, Form SP-170-B, (9/04).

[Authorization for Release of Information, SP-170-D \(eff. 09/78\).](#)

Criminal History Record Name Search Request, Form SP-167 (9/04).

[Inspection Station Complaint/Report, SP-164 \(rev. 10/01\).](#)

VA.R. Doc. No. R12-2928; Filed June 27, 2012, 4:48 p.m.

**TITLE 22. SOCIAL SERVICES**

**DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES**

**REGISTRAR'S NOTICE:** The Department for Aging and Rehabilitative Services is claiming an exemption from 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

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# Regulations

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where no agency discretion is involved. The Department for Aging and Rehabilitative Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

## Final Regulation

**Title of Regulation:** 22VAC30-11. Public Participation Guidelines (amending 22VAC30-11-10, 22VAC30-11-20).

**Statutory Authority:** §§ 2.2-4007.02 and 51.5-131 of the Code of Virginia.

**Effective Date:** August 30, 2012.

**Agency Contact:** Vanessa S. Rakestraw, Ph.D., CRC, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7663, TTY (800) 464-9950, or email [vanessa.rakestraw@dars.virginia.gov](mailto:vanessa.rakestraw@dars.virginia.gov).

### Summary:

*The amendments reflect the name of the new agency created by Chapters 803 and 835 of the 2012 Acts of Assembly to assume the powers of the former Department of Rehabilitative Services and the Department for the Aging. The new agency name is the Department for Aging and Rehabilitative Services.*

### Part I

#### Purpose and Definitions

#### 22VAC30-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

#### 22VAC30-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at [www.townhall.virginia.gov](http://www.townhall.virginia.gov), which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

VA.R. Doc. No. R12-3301; Filed July 6, 2012, 10:01 a.m.

## Final Regulation

**Title of Regulation:** 22VAC30-20. Provision of Vocational Rehabilitation Services (amending 22VAC30-20-10, 22VAC30-20-181).

**Statutory Authority:** § 51.5-131 of the Code of Virginia.

**Effective Date:** August 30, 2012.

**Agency Contact:** Vanessa S. Rakestraw, Ph.D., CRC, Policy Analyst, Department for Aging and Rehabilitative Services,

8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7663, TTY (800) 464-9950, or email [vanessa.rakestraw@dars.virginia.gov](mailto:vanessa.rakestraw@dars.virginia.gov).

**Summary:**

*The amendments reflect the name of the new agency created by Chapters 803 and 835 of the 2012 Acts of Assembly to assume the powers of the former Department of Rehabilitative Services and the Department for the Aging. The new agency name is the Department for Aging and Rehabilitative Services.*

**22VAC30-20-10. Definitions.**

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

"Act" means the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended.

"Applicant" means an individual who submits an application for vocational rehabilitation services.

"Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large-print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

"Assistive technology" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

1. The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for an individual with a disability or, if appropriate, the family members,

guardians, advocates, or authorized representatives of the individual; and

6. Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of Rehabilitative Services.

"Clear and convincing evidence" means that the designated state unit shall have a high degree of certainty before it can conclude that an individual is incapable of benefiting from services in terms of an employment outcome. The clear and convincing standard constitutes the highest standard used in our civil system of law and is to be individually applied on a case-by-case basis. The term "clear" means unequivocal. Given these requirements, a review of existing information generally would not provide clear and convincing evidence. For example, the use of an intelligence test result alone would not constitute clear and convincing evidence. Clear and convincing evidence might include a description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's needs due to the severity of the individual's disability. The demonstration of clear and convincing evidence must include, if appropriate, a functional assessment of skill development activities, with any necessary supports (including assistive technology), in real life settings. (S. Rep. No. 357, 102d Cong., 2d. Sess. 37-38 (1992))

"Commissioner" means the Commissioner of the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services.

"Community rehabilitation program" means a program that directly provides or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

1. Medical, psychiatric, psychological, social, and vocational services that are provided under one management;
2. Testing, fitting, or training in the use of prosthetic and orthotic devices;
3. Recreational therapy;
4. Physical and occupational therapy;
5. Speech, language, and hearing therapy;
6. Psychiatric, psychological, and social services, including positive behavior management;

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# Regulations

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7. Assessment for determining eligibility and vocational rehabilitation needs;
8. Rehabilitation technology;
9. Job development, placement, and retention services;
10. Evaluation or control of specific disabilities;
11. Orientation and mobility services for individuals who are blind;
12. Extended employment;
13. Psychosocial rehabilitation services;
14. Supported employment services and extended services;
15. Services to family members, if necessary, to enable the applicant or eligible individual to achieve an employment outcome;
16. Personal assistance services; or
17. Services similar to the services described in subdivisions 1 through 16 of this definition.

For the purposes of this definition, the word "program" means an agency, organization, or institution, or unit of an agency, organization, or institution, that directly provides or facilitates the provision of vocational rehabilitation services as one of its major functions.

"Comparable services and benefits" means services and benefits that are provided or paid for, in whole or in part, by other federal, state, or local public agencies, by health insurance or by employee benefits; available to the individual at the time needed to ensure the individual's progress toward achieving the employment outcome in the individual's individualized plan for employment; and commensurate to the services that the individual would otherwise receive from the vocational rehabilitation agency. For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

"Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

"Department" means the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services.

"Designated state agency" or "state agency" means the sole state agency designated in accordance with 34 CFR 361.13(a) to administer or supervise local administration of the state plan for vocational rehabilitation services.

"Designated state unit" or "state unit" means either the state agency, vocational rehabilitation bureau, division, or other organizational unit that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and that is responsible for the administration of the vocational rehabilitation program of the

state agency as required under 34 CFR 361.13(b), or the state agency that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities.

"Eligible individual" means an applicant for vocational rehabilitation services who meets the eligibility requirements of 22VAC30-20-30 and 22VAC30-20-40.

"Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; supported employment; or any other type of employment in an integrated setting including self-employment, telecommuting, or business ownership that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. (34 CFR 361.5(b) (16))

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's impediment to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the disability and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of an employment outcome; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual with a disability is capable of achieving an employment outcome.

"Extended employment" means work in a nonintegrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act (29 USC § 201 et seq.). (34 CFR 361.5(b) (20))

"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.

"Extended services" as used in the definition of "supported employment" means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a state agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this section, 34 CFR Part 363 after an individual with a most significant disability has made the transition from support provided by the designated state unit.

"Extreme medical risk" means a probability of substantially increasing functional impairment or death if medical services,



including mental health services, are not provided expeditiously.

"Family member" or "member of the family" means an individual who is either a relative or guardian of an applicant or eligible individual, or lives in the same household as an applicant or eligible individual who has a substantial interest in the well-being of that individual and whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

"Higher education/institutions of higher education" means training or training services provided by universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Impartial hearing officer" means an individual who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education); is not a member of the State Rehabilitation Council for the designated state unit; has not been involved previously in the vocational rehabilitation of the applicant or eligible individual; has knowledge of the delivery of vocational rehabilitation services, the state plan, and the federal and state regulations governing the provision of services; has received training with respect to the performance of official duties; and has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual. An individual may not be considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer. (34 CFR 361.5(b)(25))

"Individual who is blind" means a person who is blind within the meaning of the applicable state law.

"Individual with a disability," except as provided in 34 CFR 361.5(b)(29), means an individual (i) who has a physical or mental impairment; (ii) whose impairment constitutes or results in a substantial impediment to employment; and (iii) who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. (34 CFR 361.5(b)(28))

"Individual with a disability," for purposes of 34 CFR 361.5(b)(14), 34 CFR 361.13(a), 34 CFR 361.13(b)(1), 34 CFR 361.17(a), (b), (c), and (j), 34 CFR 361.18(b), 34 CFR 361.19, 34 CFR 361.20, 34 CFR 361.23(b)(2), 34 CFR 361.29(a) and (d)(5) and 34 CFR 361.51(b), means an individual (i) who has a physical or mental impairment that substantially limits one or more major life activities; (ii) who has a record of such an impairment; or (iii) who is regarded as having such an impairment. (34 CFR 361.5(b)(29))

"Individual with a most significant disability" means an individual who meets the designated state unit's criteria for an individual with a most significant disability. (34 CFR 361.5(b)(30))

"Individual with a significant disability" means an individual with a disability (i) who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation. (34 CFR 361.5(b)(31))

"Individual's representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative. (34 CFR 361.5(b)(32))

"Integrated setting," with respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals other than nondisabled individuals who are providing services to those applicants or eligible individuals. "Integrated setting," with respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons.

"Local workforce investment board" means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998. (34 CFR 361.5(b)(34))

"Maintenance" means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment. (34 CFR 361.5(b)(35))

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## Regulations

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"Mediation" means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in 34 CFR 361.57(d) by a qualified impartial mediator. (34 CFR 361.5(b)(36))

"Mental disability" means (i) having a disability attributable to mental retardation, autism, or any other neurologically disabling condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Nonprofit," with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1986. (34 CFR 361.5(b)(37))

"Ongoing support services," as used in the definition of "supported employment," means services that are needed to support and maintain an individual with a most significant disability in supported employment; identified based on a determination by the designated state unit of the individual's needs as specified in an individualized plan for employment; and furnished by the designated state unit from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment. These services must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on, at a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or if under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice-monthly meetings with the individual. These services must consist of any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs described in this section; the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site; job development and placement; social skills training; regular observation or supervision of the individual; follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized

representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement; facilitation of natural supports at the worksite; any other service identified in the scope of vocational rehabilitation services for individuals described in 22VAC30-20-120; or any service similar to the foregoing services. (34 CFR 361.5(b)(38))

"Otological examination" means any examination conducted by a physician skilled in otology.

"Personal assistance services" means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

"Physical and mental restoration services" means corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment; diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with state licensure laws; dentistry; nursing services; necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services; drugs and supplies; prosthetic, orthotic, or other assistive devices, including hearing aids; eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with state licensure laws; podiatry; physical therapy; occupational therapy; speech or hearing therapy; mental health services; treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services or that are inherent in the condition under treatment; special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and other medical or medically related rehabilitation services.

"Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic, and lymphatic,

skin and endocrine; or any mental or psychological disorders such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR 361.5(b)(41))

"Post-employment services" means one or more of the services identified in 22VAC30-20-120 that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests and informed choice. (34 CFR 361.5(b)(42))

"Prevocational training" means individual and group instruction or counseling, the controlled use of varied activities, and the application of special behavior modification techniques; individuals or patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures, (ii) acquire personal-social behaviors which would make them acceptable employees and coworkers on the job, and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any mechanical equipment that improves or substitutes for one or more of man's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities, and whose substantially limiting condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Qualified and impartial mediator" means an individual who is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a state office of mediators, or employee of an institution of higher education); is not a member of the State Rehabilitation Council for the designated state unit; has not been involved previously in the vocational rehabilitation of the applicant or eligible individual; is knowledgeable of the vocational rehabilitation program and the applicable federal and state laws, regulations, and policies governing the provision of vocational rehabilitation services; has been trained in effective mediation techniques consistent with any state approved or recognized certification, licensing, registration, or other requirements; and has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual during the mediation proceedings. An individual serving as a mediator is not considered to be an employee of the designated state agency or designated state unit for the purposes of this definition solely because the individual is paid by the designated state agency or

designated state unit to serve as a mediator. (34 CFR 361.5(b)(43))

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to individuals with disabilities, and which provides singly or in combination one or more of the following services for individuals with disabilities: (i) vocational rehabilitation services, including under one management, medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to individuals who are blind; and (xii) transitional or extended employment for those individuals with disabilities who cannot be readily absorbed in the competitive labor market.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one individual with a disability.

"State" means the Commonwealth of Virginia.

"State plan" means the state plan for vocational rehabilitation services or the vocational rehabilitation services part of a consolidated rehabilitation plan under 34 CFR 361.10(c). (34 CFR 361.5(b)(51))

"State workforce investment board" means a state workforce investment board established under § 111 of the Workforce Investment Act of 1998. (34 CFR 361.5(b)(49))

"Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

"Supported employment" means (i) competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources,

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# Regulations

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priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with ongoing support services for individuals with the most significant disabilities for whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and who, because of the nature of their disabilities, need intensive supported employment services from the designated state unit and extended services after transition to perform this work or (ii) transitional employment for individuals with the most significant disabilities due to mental illness. (34 CFR 361.5(b)(53))

"Supported employment services" means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by the designated state unit for a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the employment outcome identified in the individualized plan for employment; and following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment. (34 CFR 361.5(b)(54))

"Transition services" means a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment. (34 CFR 361.5(b)(55))

"Transitional employment," as used in the definition of "supported employment," means a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

"Transportation" means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including

expenses for training in the use of public transportation vehicles and systems. (34 CFR 361.5(b)(57))

"Vocational rehabilitation services" means those services listed in 22VAC30-20-120.

"Work adjustment training" means a treatment and training process utilizing individual and group work, or work related activities, to assist individuals in understanding the meaning, value and demands of work; to modify or develop attitudes, personal characteristics, work behavior, and to develop functional capacities, as required in order to assist individuals toward their optimum level of vocational development.

## **22VAC30-20-181. Review of rehabilitation counselor or coordinator determinations.**

A. The designated state unit must establish and implement procedures, including standards of review under subsection D of this section, established by the Commissioner of the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services to ensure that any applicant or eligible individual who is dissatisfied with any determinations made by a rehabilitation counselor or coordinator concerning the furnishing or denial of services may request, or, if appropriate, may request through the individual's representative, a timely review of those determinations. The procedures established by the Commissioner of the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services must be in accordance with this section.

B. Informal resolution. The ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services may establish an informal process to resolve a request for review without conducting mediation or a formal hearing. However, the informal process must not be used to deny the right of an applicant or eligible individual to a hearing under subsection D of this section or mediation under subsection C of this section. The informal resolution or the mediation process or both must be conducted and concluded within the time period established under subdivision D 1 of this section for holding a formal hearing. If neither the informal resolution nor mediation is successful, a formal hearing must be conducted by the end of this same period, unless the parties agree to a specific extension of time.

C. The department shall establish mediation procedures that allow an applicant or eligible individual and the state unit to resolve disputes. The procedures shall provide that:

1. The mediation process is conducted by a qualified and impartial mediator as defined in 22VAC30-20-10 who must be selected from a list of qualified and impartial mediators maintained by the state;
2. Mediation be available, at a minimum, whenever an applicant, eligible individual or, as appropriate, the individual's representative requests an impartial due process hearing under this section;

3. Participation in the mediation process is voluntary on the part of the applicant or eligible individual, as appropriate, and on the part of the state unit;
4. The mediation process not be used to deny or delay the applicant or eligible individual's right to pursue resolution of the dispute through a formal hearing process in the time specified in subsection D of this section or any other rights provided under this part;
5. Either party or the mediator may elect to terminate mediation at any time and pursue resolution through a formal hearing if desired;
6. Mediation sessions are scheduled and conducted in a timely manner and held in a location and manner convenient to the parties in dispute;
7. Discussions that occur during mediation remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding and parties may be required to sign a confidentiality pledge prior to mediation;
8. Any agreement reached by the parties to the dispute will be described in a written mediation agreement that is developed by the parties with the assistance of the mediator, signed by both parties, with a copy given to both parties; and
9. The cost of the mediation process will be paid by the state, but the state is not required to pay for any costs related to the representation of an applicant or eligible individual.

D. The department shall establish formal review procedures that provide that:

1. A hearing by an impartial hearing officer, selected in accordance with subsection E of this section, must be held within 60 days of an individual's request for review, unless informal resolution is achieved prior to the 60th day or the parties agree to a specific extension of time;
2. The department may not institute a suspension, reduction, or termination of services being provided under an individualized plan for employment pending a final determination of the formal hearing under this subdivision, informal resolution under subsection B of this section, or mediation under subsection C of this section unless the individual or, in an appropriate case, the individual's representative so requests or the agency has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual or the individual's representative;
3. The individual or, if appropriate, the individual's representative must be afforded an opportunity to present additional evidence, information, and witnesses to the impartial hearing officer, to be represented by counsel or other appropriate advocate, and to examine all witnesses and other relevant sources of information and evidence;

4. The impartial hearing officer shall make a decision based on the provisions of the approved state plan, the federal Rehabilitation Act of 1973 as amended (the Act), federal vocational rehabilitation regulations, and state regulations and policies that are consistent with federal requirements and shall provide to the individual or, if appropriate, the individual's representative and to the commissioner a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing;

5. The hearing officer's decision is final, except that a party may request an impartial review under subdivision 6 of this subsection if the state has established procedures for review, and a party involved in a hearing may bring a civil action under subsection H of this section;

6. The state may establish procedures to enable a party who is dissatisfied with the decision of the impartial hearing officer to seek an impartial administrative review of the decision consistent with 34 CFR 361.57;

7. Except for the time limitations established in subdivision 1 of this subsection, each state's review procedures may provide for reasonable time extensions for good cause shown at the request of a party or at the request of both parties.

E. Selection of impartial hearing officers. The impartial hearing officer for a particular case must be selected (i) from among the pool of persons qualified to be an impartial hearing officer, as defined in 34 CFR 361.5(b)(22) and 29 USC § 722(b) and (d), who are identified jointly by the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services and those members of the State Rehabilitation Council designated in § 102(d)(2)(C) of the Act (29 USC § 722(b) and (d)) and (ii) on a random basis.

F. Informing affected individuals. The department shall inform, through appropriate modes of communication, all applicants and eligible individuals of:

1. Their right to review under this section, including the names and addresses of individuals with whom appeals may be filed; and
2. The manner in which an impartial hearing officer will be selected consistent with the requirements of subsection E of this section.

G. Implementation of final decisions. If a party brings a civil action under subsection H of this section to challenge the final decision of a hearing officer under subsection D of this section or to challenge the final decision of a state reviewing official under subsection D of this section, the final decision of the hearing officer or state reviewing official must be implemented pending review by the court.

H. Civil action. Any party who disagrees with the findings or decisions of an impartial hearing officer under subdivision D 4 of this section if the state that has not established administrative review procedures under subdivision D 6 of

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# Regulations

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this section, and any party who disagrees with the findings and decision under subdivision D 6 of this section, if the state has established an administrative review procedure, has a right to bring civil action with respect to the matter in dispute. The action may be brought in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy. In any action brought under this section, the court receives the records related to the impartial due process hearing and the records related to the administrative review, if applicable; hears additional evidence at the request of a party; and basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

VA.R. Doc. No. R12-3306; Filed July 6, 2012, 10:06 a.m.

## Final Regulation

**Title of Regulation:** 22VAC30-30. **Provision of Independent Living Rehabilitation Services (amending 22VAC30-30-160, 22VAC30-30-250).**

**Statutory Authority:** § 51.5-131 of the Code of Virginia.

**Effective Date:** August 30, 2012.

**Agency Contact:** Vanessa S. Rakestraw, Ph.D., CRC, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7663, TTY (800) 464-9950, or email [vanessa.rakestraw@dars.virginia.gov](mailto:vanessa.rakestraw@dars.virginia.gov).

### Summary:

*The amendments reflect the name of the new agency created by Chapters 803 and 835 of the 2012 Acts of Assembly to assume the powers of the former Department of Rehabilitative Services and the Department for the Aging. The new agency name is the Department for Aging and Rehabilitative Services.*

### 22VAC30-30-160. Staff.

A. The majority of the center for independent living (CIL) staff and individuals with decision-making positions shall be individuals with disabilities.

B. The staff of the service provider shall include personnel who are specialists in the development and provision of IL services and in the development and support of centers.

C. CILs shall meet all relevant licensure, certification, bonding, and insurance requirements of the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services.

D. To the maximum extent feasible, the service provider must make available personnel able to communicate (i) with individuals with significant disabilities who rely on alternative modes of communication, such as manual communication, nonverbal communication devices, Braille, or audio tapes, and who apply for or receive IL services under Title VII of the Act, and (ii) in the native languages of individuals with significant disabilities whose English

proficiency is limited and who apply for or receive IL services under Title VII of the Act.

E. Staff at centers will receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

F. The service provider shall establish and maintain a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.

### 22VAC30-30-250. Referrals.

A. ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services clients referred to a center for independent living by department counselors for specific services related to the vocational objective under the Individualized Employment Plan (IEP) may have those services funded by the department based upon approved vendor arrangements between the department and the respective center.

B. The DSU shall develop, establish, and maintain written standards and procedures to be applied by service providers to assure expeditious and equitable handling of referrals and applications for IL services from individuals with significant disabilities.

C. The service provider shall apply the standards and procedures established by the DSU to assure expeditious and equitable handling of referrals and applications for IL services from individuals with significant disabilities.

D. A DSU may handle referrals and applications for IL services or, except as otherwise provided, may delegate these functions and responsibilities to the appropriate service provider with which the DSU subgrants or contracts to provide IL services.

VA.R. Doc. No. R12-3308; Filed July 6, 2012, 10:37 a.m.

## Final Regulation

**Title of Regulation:** 22VAC30-40. **Protection of Participants in Human Research (amending 22VAC30-40-10, 22VAC30-40-30).**

**Statutory Authority:** § 51.5-131 of the Code of Virginia.

**Effective Date:** August 30, 2012.

**Agency Contact:** Vanessa S. Rakestraw, Ph.D., CRC, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7663, TTY (800) 464-9950, or email [vanessa.rakestraw@dars.virginia.gov](mailto:vanessa.rakestraw@dars.virginia.gov).

### Summary:

*The amendments reflect the name of the new agency created by Chapters 803 and 835 of the 2012 Acts of Assembly to assume the powers of the former Department of Rehabilitative Services and the Department for the*

*Aging. The new agency name is the Department for Aging and Rehabilitative Services.*

**22VAC30-40-10. Definitions.**

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

"Affiliated with the covered entity" means employed by the covered entity or a member of a household containing an employee of the covered entity.

"Agent" means any individual performing department-designated activities or exercising department-delegated authority or responsibility.

"Assent" means a child's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent.

"Commissioner" means the Commissioner of the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services.

"Covered entity" means the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services, Woodrow Wilson Rehabilitation Center, sheltered workshops, or independent living centers.

"Department" means the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services.

"Guardian" means an individual who is authorized under applicable state or local law to consent on behalf of a minor to general medical care.

"Human Research Review Committee" or "HRRC" means the committee established in accordance with and for the purposes expressed in this chapter.

"HRRC approval" means the determination of the HRRC that the research has been reviewed and may be conducted within the constraints set forth by the HRRC and by other department, state and federal requirements.

"Human participant or human subject" means a living individual about whom an investigator (whether professional or student) conducting research obtains:

1. Data through intervention or interaction with the individual; or
2. Identifiable private information.

"Human subject research" means a systematic investigation, experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) in which a living individual about whom an investigator (whether professional or student) conducting research obtains data through intervention or interaction with the individual or obtains identifiable private information.

"Identifiable private information" means information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking

place, and information that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (for example, a medical record, social security number). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) to constitute research involving human subjects.

"Independent living center" means a consumer-controlled, community-based, cross disability, nonresidential private nonprofit agency that:

1. Is designed and operated within a local community by individuals with disabilities; and
2. Provides an array of independent living services.

"Informed consent" means a process by which the investigator fully explains the research activities, ensures that the prospective subject has sufficient opportunity to ask questions, and has sufficient time to make a decision whether or not to participate in the research prior to signing the HRRC-approved written consent document. Informed consent must be prospectively obtained without coercion, include all of the basic elements of informed consent as specified in 22VAC30-40-100 B, be legally effective, contain no exculpatory language, and as required, include the additional elements of informed consent specified in 22VAC30-40-100 C.

"Institution" means any public or private entity or agency (including federal, state, and other agencies).

"Interaction" means communication or interpersonal contact between investigator and subject.

"Intervention" means both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the subject or subject's environment that are performed for research purposes.

"Investigator" means the person, whether professional or student, who conducts the research.

"Legally authorized representative," as defined in § 32.1-162.16 of the Code of Virginia, means, in the following specified order of priority:

1. The parent or parents having custody of a prospective subject who is a minor;
2. The agent appointed under an advance directive, as defined in § 54.1-2982 of the Code of Virginia, executed by the prospective subject, provided the advance directive authorizes the agent to make decisions regarding the prospective subject's participation in human research;
3. The legal guardian of a prospective subject;
4. The spouse of the prospective subject, except where a suit for divorce has been filed and the divorce decree is not yet final;
5. An adult child of the prospective subject;

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# Regulations

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6. A parent of the prospective subject when the subject is an adult;
7. An adult brother or sister of the prospective subject; or
8. Any person or judicial or other body authorized by law or regulation to consent on behalf of a prospective subject to such subject's participation in the particular human research.

For the purposes of this definition, any person authorized by law or regulation to consent on behalf of a prospective subject to such subject's participation in the particular human research shall include an attorney-in-fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney-in-fact shall not be employed by the person, institution or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

"Minor," as defined in § 1-207 of the Code of Virginia, means an individual who is less than 18 years of age.

"Nontherapeutic research" means human subject research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the subject.

"Parent" means a minor's biological or adoptive parent.

"Permission" means the agreement of parent(s) or a legally authorized representative to the participation of their minor or ward in research.

"Private information" means information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, or information that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the human participant is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human participants.

"Research" means a systematic investigation designed to develop or contribute to generalizable knowledge (basic research) or specific knowledge (applied research). Activities that meet this definition constitute research for purposes of this chapter, whether or not they are supported or funded under a program that is considered research for other purposes. For example, some "demonstration" and "service" programs may include research activities.

"Sheltered workshop" means a program that (i) provides directly or facilitates the provision of one or more vocational

rehabilitation services enumerated in 34 CFR 361.5(b)(9)(i) to individuals with disabilities to enable them to maximize their opportunities for employment, including career advancement; (ii) has a vendor relationship with the department; and (iii) is not operated by a community services board.

## **22VAC30-40-30. Applicability.**

This chapter shall apply to the ~~Department of Rehabilitative Services~~ Department for Aging and Rehabilitative Services, Woodrow Wilson Rehabilitation Center, sheltered workshops and independent living centers, known as covered entities.

VA.R. Doc. No. R12-3309; Filed July 6, 2012, 11:22 a.m.

## **Final Regulation**

**Title of Regulation: 22VAC30-50. Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund (amending 22VAC30-50-30, 22VAC30-50-120).**

**Statutory Authority: § 51.5-131 of the Code of Virginia.**

**Effective Date: August 30, 2012.**

**Agency Contact: Vanessa S. Rakestraw, Ph.D., CRC, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7663, TTY (800) 464-9950, or email [vanessa.rakestraw@dars.virginia.gov](mailto:vanessa.rakestraw@dars.virginia.gov).**

## **Summary:**

*The amendments reflect the name of the new agency created by Chapters 803 and 835 of the 2012 Acts of Assembly to assume the powers of the former Department of Rehabilitative Services and the Department for the Aging. The new agency name is the Department for Aging and Rehabilitative Services.*

## **22VAC30-50-30. Disbursement of funds.**

A. This chapter serves to (i) establish policies and procedures for soliciting and receiving applications for grants from the fund, (ii) establish criteria for reviewing and ranking such applications, and (iii) establish procedures for distributing moneys in the fund, which shall be used solely to provide grants to Virginia-based organizations, institutions, and researchers.

B. Forty-seven and one-half percent of the moneys shall be allocated for research on the mechanisms and treatment of neurotrauma; 47-1/2% of the moneys shall be allocated for rehabilitative services, i.e., the development of innovative, model community-based rehabilitative programs and services for individuals with neurotrauma; and 5.0% of the moneys shall be allocated for the ~~Department of Rehabilitative Services'~~ Department for Aging and Rehabilitative Services' costs for administering and staffing the Commonwealth Neurotrauma Initiative Trust Fund and advisory board.

## **22VAC30-50-120. Unexpended funds.**

Notwithstanding any other law to the contrary, the Commissioner of the ~~Department of Rehabilitative Services~~



Department for Aging and Rehabilitative Services may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.

VA.R. Doc. No. R12-3312; Filed July 6, 2012, 3:59 p.m.

## STATE BOARD OF SOCIAL SERVICES

### Emergency Regulation

**Title of Regulation:** 22VAC40-411. General Relief Program (amending 22VAC40-411-10; repealing 22VAC40-411-30 through 22VAC40-411-60, 22VAC40-411-80 through 22VAC40-411-110, 22VAC40-411-130 through 22VAC40-411-160).

**Statutory Authority:** §§ 63.2-217 and 63.2-802 of the Code of Virginia.

**Effective Dates:** July 2, 2012, through July 1, 2013.

**Agency Contact:** Mark Golden, Department of Social Services, Division of Benefit Programs, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7385, FAX (804) 726-7356, TTY (800) 828-1120, or email [mark.golden@dss.virginia.gov](mailto:mark.golden@dss.virginia.gov).

#### Preamble:

*This emergency regulatory action amends the regulations to conform to Item 332 of the 2011 Virginia Appropriation Act. Item 332 eliminates funding for all General Relief (GR) components with the exception of the unattached children component. Effective with local budget allocations for Fiscal Year 2012, the adult components of the GR program are eliminated and only the GR unattached children component will continue. The adult components that have been eliminated include unemployed employable individuals, unemployable individuals, institutional care, ongoing medical, interim assistance, food credit authorization, shelter, emergency medical, transient, burial, and clothing assistance. Item 332 authorizes the department to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of the act.*

#### 22VAC40-411-10. Definitions.

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

"Advocacy services" means legal services to help establish eligibility for federal disability benefits.

"Affidavit of support" or "Form I-134" means a statement of a sponsor's income, resources, and willingness to support. Form I-134 or similar form is filed with the Citizenship and Immigrant Services (USCIS) by a United States resident who sponsors an alien seeking admission to the United States as a permanent resident. The affidavit is made for the purpose of

assuring the United States government that the sponsored alien will not become a public charge in the United States.

"Agency" means the local department of social services.

"Agency action" or "action" means action taken by the superintendents or directors or local board certifying the individual or family is eligible for maintenance or emergency assistance.

~~"Agency contract" means the local department of social services has an agreement with a pharmacy to provide prescription drugs for recipients of General Relief.~~

"Appeal process" means a review of the decision on the disability claim that can involve four steps: reconsideration, hearing before an administrative law judge, review by Appeals Council, and hearing in a federal court.

"Assistance for unattached children" means a component of the General Relief Program that can provide assistance to children who would be eligible for Temporary Assistance for Needy Families (TANF) if the relationship requirement were met.

~~"Assistance for unemployable individuals" means a component of the General Relief Program that can provide assistance to individuals who are unable to work because of physical or mental disability, age or lack of training, illness in the family, or home responsibilities.~~

~~"Assistance for unemployed employable individuals" means a component of the General Relief Program that can provide assistance to individuals who are not working but are able to work.~~

"Assistance unit" means the individual or group of individuals whose needs, income, and resources are considered in determining eligibility for a component.

~~"Bar association" means a professional association for attorneys.~~

~~"Clothing assistance" means a component of the General Relief Program that can be used to purchase clothing for individuals who have an emergency need.~~

"Component" means a specific type of assistance provided under the General Relief Program.

~~"Disability" means a physical or mental condition rendering a person unable to perform any meaningful work and this condition is expected to last at least 12 months or result in death.~~

~~"Disability Determination Services" means a program administered by the Virginia Department of Rehabilitative Services that makes decisions on disability claims for the Social Security Administration.~~

~~"Disability insurance benefits" means Title II of the Social Security Act that provides benefits to disabled persons who have worked for a substantial period in employment covered by Social Security.~~

"Entitlement date or entitlement" means the date eligibility begins.

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## Regulations

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~~"Emergency medical assistance" means a component of the General Relief Program that can be used to purchase medical assistance for individuals who have an emergency need.~~

"Equal Access to Justice Act" means an act that allows a federal court to grant an attorney a fee for proceedings before an administrative agency.

~~"Food credit authorization assistance" means a component of the General Relief Program that can be used to purchase food for individuals who have an emergency need.~~

"Federal disability benefits" means disability insurance benefits or Supplemental Security Income.

"Foster child" means a child who is entrusted or committed to a state mandated service and the child is identified as "at risk" or "in crisis."

"General Relief Plan" means the document completed by a local department of social services to identify the components included in the General Relief Program for the locality.

"General Relief Program (GR)" means an optional program funded by state (62.5%) and local funds (37.5%) with the primary purpose of assisting individuals who do not qualify for aid in a federal category. The program is supervised by the State Department of Social Services and administered by local agencies. Each agency chooses the components and subcomponents to be included in its General Relief Program.

"Hearing before an administrative law judge" means the first level formal fair hearing of decisions of the Social Security Administration to deny federal disability benefits. The hearing is conducted by an attorney who is an official of the Social Security Administration.

~~"Interim assistance" means a component of the General Relief Program that can provide assistance to individuals who have applied for Supplemental Security Income (SSI), who must apply for SSI, or are appealing an SSI decision. Individuals receiving interim assistance must sign an authorization allowing the Social Security Administration to send their initial retroactive Supplemental Security Income benefits to the local agency, which then reimburses its general relief budget for the amount of financial assistance given the individuals while their Supplemental Security Income benefits were pending approval.~~

"Legal aid attorney" means an attorney who provides legal services at no cost to people within certain income guidelines.

"Maintenance payments" or "maintenance" means ongoing financial assistance from the general relief program.

"Maximum for the locality" means the amount of reimbursable assistance applicable to some components based on the agency group. Agencies are placed in one of three groups based on shelter expenses in the area.

"Monthly maximum" means the dollar amount of assistance specified in the General Relief Plan for some components.

~~"Ongoing medical assistance" means a component of the General Relief Program that can be used to provide~~

~~individuals continuing medical assistance. The component is composed of 10 subcomponents including prescription drugs.~~

"Permanent resident status" means having been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

"Private attorney" means an attorney engaged in the private practice of law for which a fee is charged.

"Provider" means an attorney, or an individual working under the supervision of an attorney legally allowed to do so, who provides assistance in establishing an individual's eligibility for federal disability benefits.

"Recipient" means an individual who is receiving ~~interim~~ assistance.

~~"Reconsideration" means a review of the disability claim by the Disability Determination Services.~~

~~"Recoupment" means the amount reimbursed to the general relief or state and local foster care funds from an individual's retroactive Supplemental Security Income benefits for assistance to that individual while approval for federal disability benefits was pending approval.~~

"Reimbursable" means the amount an assistance unit can receive per month for which the state/local match is available.

~~"Rent/house payments" means a subcomponent of the shelter assistance component that can be used to pay housing expenses.~~

"Review by the Appeals Council" means a review of the decisions of the administrative law judge by a review unit of the Social Security Administration. The Appeals Council either decides the case or issues an order returning it to an administrative law judge for further review.

~~"Shelter assistance" means a component of the General Relief Program that can be used to provide for the shelter needs of individuals. The component's two subcomponents are rent/house payments and utility payments.~~

"Sponsor" means a person, or any public or private agency or organization, that executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry into the United States as a permanent resident.

"Sponsored alien" means an immigrant who due to the likelihood of his becoming a public charge would have been excluded from lawful admission into the United States. As a condition of this immigrant's admission, a person or public or private agency or organization executed an affidavit of support or similar agreement guaranteeing the federal, state, and local governments that the immigrant would not become a public charge.

"Standard of assistance" means the amount of reimbursable assistance based on the size of the assistance unit and the local department of social services group. Local agencies are placed in one of three groups based on shelter expenses in the area.

"Standard of assistance at 90% of need" means the amount of reimbursable assistance applicable to some components based on the size of the assistance unit and the agency group. Agencies are placed in one of three groups based on shelter expenses in the area.

"Subcomponent" means a part of a component.

"Supplemental Security Income" means Title XVI of the Social Security Act that provides benefits to a disabled person based on financial need.

"Temporary Assistance for Needy Families" (TANF) means the federal program administered by the Virginia Department of Social Services that provides assistance for families with children.

"United States Citizenship and Immigration Services (USCIS)" is a branch of the United States Department of Homeland Security delegated authority to enforce the Immigration and Nationality Act and all other laws relating to the immigration and naturalization of aliens.

"Utility payments" means a subcomponent of the shelter assistance component that can be used to pay for items, such as electricity, oil, water, and natural gas.

**22VAC40-411-30. Assistance for unemployed employable individuals. (Repealed.)**

An agency electing to provide this component will specify in its General Relief Plan the types of assistance units served. The choices are:

1. Parents and their minor children;
2. A parent and minor children;
3. A married couple with no children;
4. One individual; or
5. An unmarried pregnant woman.

**22VAC40-411-40. Assistance for unemployable individuals. (Repealed.)**

An agency electing to provide this component will specify in its General Relief Plan the amount of assistance that can be received by an assistance unit in 12 consecutive months. The choices are:

1. The standard of assistance at 90% of need times three;
2. The standard of assistance at 90% of need times six;
3. The standard of assistance at 90% of need times nine; or
4. The standard of assistance at 90% of need times 12 or the maximum for the locality times 12.

**22VAC40-411-50. Ongoing medical assistance. (Repealed.)**

A. An agency electing to provide this component will specify in its General Relief Plan the amount of assistance that can be received by an assistance unit in 12 consecutive months. The choices are:

1. Three times the monthly maximum;
2. Six times the monthly maximum;

3. Nine times the monthly maximum; or
4. Twelve times the monthly maximum.

B. An agency electing to provide for the purchase of prescription drugs will specify in its General Relief Plan whether recipients are required to obtain drugs at a pharmacy with an agency contract. The choices are:

1. Recipients are not required to buy prescription drugs from a contracted pharmacy; or
2. Recipients are required to buy prescription drugs from a contracted pharmacy.

**22VAC40-411-60. Interim assistance. (Repealed.)**

An agency that elects to provide this component but does not elect to provide assistance for unemployable individuals will specify in its General Relief Plan whether interim assistance will be restricted to assistance units with an individual with a disability that will last 12 months, has lasted 12 months, or will result in death. The choices are:

1. Assistance will not be restricted; or
2. Assistance will be restricted.

**22VAC40-411-80. Food credit authorization assistance. (Repealed.)**

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months; or
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

**22VAC40-411-90. Shelter assistance. (Repealed.)**

A. An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months; or
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

B. An agency electing to provide rent/house payments will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months; or
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

C. An agency electing to provide utility payments will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

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# Regulations

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1. Assistance will be provided for a maximum of one to six months out of six consecutive months; or
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

## **22VAC40-411-100. ~~Emergency medical assistance.~~ (Repealed.)**

A. An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months; or
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

B. An agency electing to provide prescription drugs will specify in its General Relief Plan whether recipients are required to obtain drugs at a pharmacy with an agency contract. The choices are:

1. Recipients are not required to buy prescription drugs from a contracted pharmacy; or
2. Recipients are required to buy prescription drugs from a contracted pharmacy.

## **22VAC40-411-110. ~~Clothing assistance.~~ (Repealed.)**

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months; or
2. Assistance will be provided for a maximum of one to 12 months.

## **22VAC40-411-130. ~~Disability advocacy referral.~~ (Repealed.)**

The agency electing to provide disability advocacy services will identify recipients of the interim assistance component of general relief who have received written notification from the Social Security Administration that their disability claims at the application or reconsideration level have been denied. Within five working days after the identification, the agency will send letters to the interim assistance recipients explaining advocacy services, offering to refer them to advocacy providers for legal representation during the appeal process, providing information on how the appeal would affect their general relief benefits, and advising them that they have five days from the receipt of this letter to contact the agency requesting advocacy services.

If the interim assistance recipient chooses to participate in the Disability Advocacy Project, he will be allowed to select a provider from a list of qualified advocacy providers with whom the agency has contracts or be allowed to select another provider if that provider meets the qualifications and agrees to enter into a contract with the agency.

The agency will have the interim assistance recipient sign a Confidentiality Form (VDSS Form 032-01-0040-03-eng) giving the agency permission to refer the recipient to the selected provider.

Within five working days after the selection, a referral letter will be sent by the agency to the selected advocacy provider.

## **22VAC40-411-140. ~~Duties of the disability advocacy provider.~~ (Repealed.)**

Advocacy providers will perform the following services:

1. Within five working days of receipt of a referral letter from the agency, send a letter to the interim assistance recipient or the child's representative, acknowledging the referral and instructing the recipient or child's representative to protect the filing date by filing a Request for Reconsideration or Request for a Hearing with the Social Security Administration within 60 days of the date of his denial notice.
2. Contact the interim assistance recipient or child's representative by mail and telephone, if necessary, to schedule an appointment for an interview. If the provider cannot contact the recipient or the recipient does not keep the appointment, the provider will promptly notify the agency.
3. During the interview with the interim assistance recipient or child's representative, provide legal advice and counsel regarding federal disability benefits and the appeal process. The provider will assess the potential eligibility of the recipient or child for federal disability benefits. The decision whether to proceed or not proceed in the appeal process must be made by the recipient or the child's representative after receiving legal advice from the provider. The recipient or the child's representative must request the services of the advocacy provider by signing the Social Security Form SSA 1696 U4 under the Appointment of Representative section.
4. Within 15 working days of the initial interview with the recipient or child's representative, send a notification letter to the recipient or child's representative with a copy to the agency stating whether or not the provider will accept this case for legal representation.
5. If the provider agrees to provide advocacy services, sign Social Security Form SSA 1696 U4 under the Acceptance of Appointment and Waiver of Fee sections. Copies of the form will be sent within five working days to the Social Security Administration and to the agency.
6. Assist in the completion and timely filing of any necessary Social Security forms requesting a reconsideration, hearing, or review of the hearing decision.
7. Assist in obtaining and using medical, social, vocational evidence, or expert testimony that may substantiate the presence and severity of the disability.
8. Assist the recipient in making and keeping appointments for examinations.

9. Prepare for and adequately represent the recipient or child at interviews, hearings, or appeals related to application for Supplemental Security Income.

10. Notify the recipient or the child's representative of any denial and the right to appeal to the next level in the appeal process.

11. Notify the agency of any denial and the recipient's or child's representative's decision to proceed or not proceed to the next level in the appeal process.

12. Notify the recipient, the child's representative, and the agency when advocacy services have ended.

**22VAC40-411-150. Disability advocacy contracts. (Repealed.)**

~~Agencies shall contract with licensed legal aid or private attorneys or advocates working under the supervision of an attorney who may lawfully do so to provide legal representation in the appeal process. The providers must have previously provided successful representation to disability claimants during the reconsideration, administrative law judge hearing, Appeals Council, or federal district court levels of the federal disability adjudication process.~~

~~Qualified attorneys will be recruited by agencies giving written notice to their local legal aid and bar associations that contracts for legal representation of interim assistance recipients and foster children in the federal disability benefits appeal process will be available.~~

**22VAC40-411-160. Disability advocacy disbursement. (Repealed.)**

~~To receive payment, the advocacy provider must submit a petition and copy of the favorable Social Security Administration decision to the agency within 60 days of such a decision. Disbursement for legal representation will be made by the agency within 20 working days after the agency receives the initial Supplemental Security Income payment due the recipient or child.~~

~~No disbursement will be made unless the following have occurred:~~

- ~~1. The agency referred the recipient or child's representative for legal representation;~~
- ~~2. The recipient or child's representative requested the legal representation by signing the Appointment of Representative section of Social Security Form SSA-1696-U4;~~
- ~~3. The advocacy provider signed the Acceptance of Appointment and Waiver of Fee sections of Social Security Form SSA-1696-U4; and~~
- ~~4. The agency received the initial Supplemental Security Income payment for the recipient or child.~~

~~No disbursement will be made for legal services given before the date of the agency's referral letter. Providers shall not require from the recipient or child's representative prepayment of any fees, costs, or disbursement.~~

~~The disbursement made by the agency will represent payment in full for all legal services to the recipient or child in this process with no further obligation on the part of the state or local department of social services, the recipient, nor the child's representative.~~

~~Neither the recipient, the child's representative, the State Department of Social Services, nor local agency shall be obligated to pay any additional fees, costs, or disbursement related to the provision of legal services in the appeal process including, but not limited to, payment for medical, psychological, or vocational consultations obtained to substantiate the disability claim. Under most circumstances, if preapproved by Disability Determination Services, the Social Security Administration will cover the cost of these consultations.~~

~~Contracting attorneys will agree to waive their right to legal fees paid by the Social Security Administration from the initial check for retroactive disability insurance benefits due the recipient or child should he be found eligible for both disability insurance benefits and Supplemental Security Income. An award for attorney's fees under the Equal Access to Justice Act will not be required to be waived.~~

~~The provider's fee will be paid entirely from the recoupment from the initial Supplemental Security Income payment for state and local financial assistance given the recipient or child while the Supplemental Security Income application was pending approval. The fee per favorable decision at the reconsideration level will be \$300; at the hearing before an administrative law judge, \$600; and at the Appeals Council or federal district court, \$750. The fee may in no event exceed the recoupment for the state and local assistance paid.~~

VA.R. Doc. No. R12-2541; Filed July 2, 2012, 1:02 p.m.

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 47 (2012)

### **The Governor's Advisory Board on Volunteering and National and Community Service**

#### Importance of the Issue

Community and national service are vital to the fabric of American democracy. Volunteerism and service are critical aspects of our civic life. It is appropriate that the state and federal governments work together to develop a focal point for these efforts.

Mindful of the importance of community and national service, and by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Governor's Advisory Board on Volunteering and National and Community Service.

The Board is classified as a gubernatorial advisory board in accordance with Section 2.2-2100 of the Code of Virginia.

The Board shall be established to comply with the provisions of the National and Community Services Trust Act of 1993 and to advise the Governor and Cabinet Secretaries on matters related to promotion and development of national service in the Commonwealth of Virginia. The Board shall have the following specific duties:

1. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, the Commissioner of the Department of Social Services, and other appropriate officials, on national and community service programs in Virginia and on fulfilling the responsibilities and duties prescribed by the federal Corporation for National Service.
2. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, the Commissioner of the Department of Social Services, and other appropriate officials, on the development, implementation, and evaluation of Virginia's Unified State Plan that outlines strategies for supporting and expanding national and community service throughout the Commonwealth.
3. To promote the importance of AmeriCorps programs in meeting Virginia's most pressing human, educational, environmental, and public safety needs.
4. To collaborate with the Department of Social Services and other public and private entities to recognize and call attention to the significant community service contributions of Virginia citizens and organizations.

5. To promote volunteer and community service within the Commonwealth.

6. To work with the Department of Social Services on promoting the involvement of faith based organizations in community and national service efforts.

The Board shall be comprised of no more than twenty voting members appointed by the Governor and serving at his pleasure. No more than 25 percent of voting members may be state employees.

The Governor may appoint additional persons at his discretion as ex-officio non-voting members. The voting members of the Board shall elect the Chairman. Board voting membership shall include representatives for the categories as outlined in federal regulations issued by the Corporation for National Service.

Such staff support as is necessary to support the Board's work during the term of its existence shall be furnished by the Department of Social Services and any other executive branch agencies having definitely and closely related purposes, as the Governor may designate. An estimated 300 hours of staff time will be required to support the work of the Board.

Funding necessary to support the Board shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes of the Board, authorized by Section 2.2-135 of the Code of Virginia. Direct costs for this Board are estimated at no more than \$15,000. Members of the Board shall serve without compensation and shall receive reimbursement for expenses incurred in the discharge of their official duties.

The Board shall meet at least quarterly upon the call of the Chairperson. The Board shall make an annual report to the Governor and shall issue such other reports and recommendations as it deems necessary or as requested by the Governor.

This Executive Order shall be effective June 30, 2012 and shall remain in force and effect until June 30, 2013, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 29th day of June, 2012.

/s/ Robert F. McDonnell  
Governor

## EXECUTIVE ORDER NUMBER 48 (2012)

### **Continuing the Virginia Prisoner and Juvenile Offender Re-Entry Council**

#### Importance of the Issue

Section 2.2-221.1 of the Code of Virginia directs the Secretary of Public Safety to "establish an integrated system

for coordinating the planning and provision of offender transitional and reentry services among state, local, and non-profit agencies in order to prepare offenders for successful transition into their communities upon release from incarceration." This code section also requires the Secretary to ensure that a system is in place for "improving opportunities for treatment, employment, and housing while individuals are on subsequent probation, parole, or post-release supervision."

Each year, approximately over 13,000 adult and 500 juvenile offenders are projected to be released from incarceration. The Commonwealth of Virginia seeks to improve public safety by fostering a successful transition of these offenders into their communities; and by reducing the rates at which they return to prison. In order to reduce recidivism, improve public safety, and reduce the number of crime victims, consistent with Virginia Code § 53.1-32.2, we must ensure that offenders released from incarceration have been adequately prepared to return to their communities. This preparation includes equipping offenders to find employment; providing educational opportunities; ensuring treatment for mental health and substance abuse issues; and assisting offenders re-integrate into a stable home environment. Successful integration of offenders requires collaboration, coordination, and partnership among state and local agencies, community supervision agencies, service providers, faith-based organizations, law enforcement agencies, courts, communities, and family members.

In 2010, I issued Executive Order 11, thereby establishing the Virginia Prisoner and Juvenile Offender Re-Entry Council. The Council's primary role was to develop collaborative re-entry strategies and to tie together re-entry initiative across state agencies, local agencies and community organizations. Through its work, the Council helped establish four year re-entry strategies for the Virginia Department of Corrections and the Virginia Department of Juvenile Justice. It issued over 60 recommendations to strengthen public safety, reduce recidivism, and improve collaboration among local and state agencies working on this important initiative. As a result of this important work of the Council, localities, state agencies, faith-based and community organizations, and other important stakeholders continue to aggressively move forward in their efforts to assist adult and juvenile offenders return to their communities better prepared to handle many of the challenges and barriers they face upon return from incarceration. Virginia has set forth an aggressive agenda on this initiative and continues to strive to be model for other states.

Accordingly, by virtue of the authority vested in me as Governor, under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby reconstitute the

Virginia Prisoner and Juvenile Offender Re-entry Council. The Virginia Prisoner and Juvenile Offender Re-entry Council (the Council) shall be chaired by the Secretary of Public Safety or her designee and comprised of the following Executive Branch representatives or their designees:

- Secretary of Commerce and Trade
- Secretary of Education
- Secretary of Health and Human Resources
- Secretary of Transportation
- Senior Economic Advisor to the Governor
- Commonwealth's Attorneys' Services Council
- Department of Behavioral Health and Developmental Services
- Department of Corrections
- Department of Criminal Justice Services
- Department of Education
- Department of Health
- Department of Housing and Community Development
- Department of Juvenile Justice
- Department of Medical Assistance Services
- Department of Planning and Budget
- Department of Professional and Occupational Regulation
- Department of Rehabilitative Services
- Department of Social Services
- Department of Veterans Services
- Virginia Employment Commission
- Virginia Indigent Defense Commission
- Virginia Parole Board

The Governor may appoint additional members as he deems appropriate. The Secretary of Public Safety shall invite additional participation by the Attorney General of Virginia, General Assembly, Supreme Court, Virginia Sheriffs Association, Virginia Association of Chiefs of Police, faith-based organizations, and Community Advocacy Groups. All Executive Branch agencies of the Commonwealth shall participate in activities of the Council upon request. Support staff will be provided by the Office of the Secretary of Public Safety, Office of the Secretary of Health and Human Resources, Office of the Secretary of Education, and other agencies as the Secretary of Public Safety may designate.

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# Governor

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The Council shall have the following functions:

- Receive and review reports from appropriate agencies and partners relevant to ongoing Council recommendations.
- Upon identification, develop, implement and enhance procedures to overcome barriers to implementations of recommendations.
- Encourage ongoing collaboration and partnership among local agencies, community-based social services providers, community organizations, faith-based organizations, as well as other stakeholders, in promoting and enhancing successful re-entry policies and programs to successfully promote and support the Council's recommendations. Submit a status report of actions taken to improve offender transitional and re-entry services to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15 of each year.
- Meet at the call of the Secretary of Public Safety or her designee and as provided in procedures adopted by the Council.

Necessary funding to support the Commission and its staff shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes as the Advisory Board, as authorized by Section 2.2-135 of the Code of Virginia, as well as any other private sources of funding that may be identified. Estimated direct costs for this Commission are \$1,000.00 per year and estimated staff time is 100 hours.

## Effective Date of the Executive Order

This Executive Order rescinds and supersedes Executive Order 11 (2010) issued on May 11, 2010. This Executive Order shall be effective upon its signing and shall remain in full force and effect until one 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 29th day of June, 2012.

/s/ Robert F. McDonnell  
Governor

## EXECUTIVE ORDER NUMBER 49 (2012)

### **Declaration of a State of Emergency for the Commonwealth of Virginia Due to a Severe Storm Event throughout the Commonwealth**

#### Importance of the Issue

On June 30, 2012 I verbally declared a state of emergency to exist for the Commonwealth of Virginia based on a line of severe thunderstorms with winds surpassing 80 mph impacting the Commonwealth during the evening of June 29 and continuing into June 30, 2012. These series of storms

caused loss of life, damage to personal property and significant power outages.

The health and general welfare of the citizens of the Commonwealth require that state action be taken to help alleviate the conditions caused by this situation. The effects of this storm constitute a disaster wherein human life and public and private property are imperiled, as described in § 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued this date, whereby I proclaim that a state of emergency exists and I direct that appropriate assistance be rendered by agencies of both state and local governments to prepare for potential impacts of the storm, to alleviate any conditions resulting from significant storm events and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions in so far as possible. Pursuant to § 44-75.1 A 3 and A 4 of the Code of Virginia, I also directed that a maximum of 300 members of the Virginia National Guard and the Virginia Defense Force be called forth to state duty to be prepared to respond to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

A. The implementation by agencies of the state and local governments of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state agency plans.

B. The activation of the Virginia Emergency Operations Center (VEOC) and the Virginia Emergency Response Team (VERT) to coordinate the provision of assistance to local governments. I am directing that the VEOC and VERT coordinate state actions in support of potential affected localities, other mission assignments to agencies designated in the Commonwealth of Virginia Emergency Operations Plan (COVEOP) and others that may be identified by the



State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property, and implementation of recovery activities.

C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Management, in coordination with the Virginia Information Technology Agency, and with the consultation of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the event, pursuant to § 44-146.18 of the Code of Virginia.

D. The evacuation of areas threatened or stricken by effects of the storm. Following a declaration of a local emergency pursuant to § 44-146.21 of the Code of Virginia, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to § 44-146.17 (1) of the Code of Virginia, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center (VEOC), acting on behalf of the State Coordinator of Emergency Management, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination. Also, in those localities that have declared a local emergency pursuant to § 44-146.21 of the Code of Virginia, if the local governing body determines that controlling movement of persons is deemed necessary for the preservation of life, public safety, or other emergency mitigation, response, or recovery, pursuant to § 44-146.17(1) of the Code of Virginia, I authorize the control of ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein upon such timetable as the local governing body, in coordination with the State Coordinator of Emergency Management and the VEOC shall determine. Violations of these orders to citizens shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.

E. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to § 44-146.17(5) and § 44-146.28:1 of the Code of Virginia, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare,

transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the Code of Virginia.

F. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, over width, registration, or license exemptions to all carriers transporting essential emergency relief supplies, conducting essential emergency response operations, or providing restoration of utilities (electricity, gas, phone, water, wastewater, and cable) in and through any area of the Commonwealth in order to support the disaster response and recovery, regardless of their point of origin or destination. Such exemptions shall not be valid on posted structures for restricted weight.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Single Unit (3 Axles)	60,000 Pounds
Tractor - Semitrailer (4 Axles)	70,000 Pounds
Tractor - Semitrailer (5 Axles)	90,000 Pounds
Tractor - Twin Trailers (5 Axles)	90,000 Pounds
Tractor-Semitrailer (6 or more Axles)	100,000 Pounds

G. All over width loads, up to a maximum of 12 feet, and over height loads up to a maximum of 14 feet must follow Virginia Department of Motor Vehicles (DMV) hauling permit and safety guidelines.

In addition to the described over weight/over width transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles in route and returning to their home base. The above - cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

Authorization of the State Coordinator of Emergency Management to grant limited exemption of hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing direct relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the Code of Virginia and Title 49 of Federal Regulations, Section 390.23 and Section 395.3.

The foregoing over weight/over width transportation privileges as well as the regulatory exemption provided by § 52-8.4.A of the Code of Virginia, and implemented in 19VAC30-20-40 B of the "Motor Carrier Safety Regulations," shall remain in effect for 30 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in

consultation with the Secretary of Transportation, whichever is earlier.

H. The discontinuance of provisions authorized in paragraph F above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet - level Secretaries.

I. The authorization of a maximum of \$100,000 for matching funds for the Individuals and Household Program, authorized by The Stafford Act (when presidentially authorized), to be paid from state funds.

J. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28 (b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.

K. The authorization of a maximum of \$350,000 in state sum sufficient funds for State and local governments mission assignments authorized and coordinated through the Virginia Department of Emergency Management that are allowable as defined by The Stafford Act for gubernatorial and presidentially authorized events.

L. Designation of members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters, Citizen Corps Programs such as Medical Reserve Corps (MRCs) and Citizen Emergency Response Teams (CERTS), and others identified and tasked by the State Coordinator of Emergency Management for specific disaster related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23 (a) and (f) of the Code of Virginia, in the performance of their specific disaster-related mission assignments.

M. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time - consuming procedures or formalities and without regard to application or permit fees or royalties.

N. The activation of the statutory provisions in Section 59.1-525 et seq. of the Code of Virginia related to price gouging. Price gouging at any time is unacceptable. Price gouging is even more reprehensible after a natural disaster. I have directed all applicable executive branch agencies to take immediate action to address any verified reports of price gouging of necessary goods or services. I make the same request of the Office of the Attorney General and appropriate local officials.

O. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in preparations and in alleviating the human suffering and damage to property.

2. Pursuant to § 52-6 of the Code of Virginia, I authorize the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers as deemed necessary. These police officers shall have the same powers and perform the same duties as the State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by § 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the Code of Virginia and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

- a. Workers Compensation benefits provided to members of the National Guard by the Virginia Workers Compensation Act, subject to the requirements and limitations thereof; and, in addition,

- b. The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any

such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers Compensation Act during the same month. If and when the time period for payment of Workers Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the Code of Virginia, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. The following conditions apply to service by the Virginia Defense Force:

- a. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;
- b. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;
- c. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with § 44-54.12 of the Code of Virginia; and
- d. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers Compensation Act, subject to the requirements and limitations thereof.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the Code of Virginia, other than costs defined in the paragraphs above pertaining to the Virginia National Guard and the Virginia Defense Force, in performing these missions shall be paid from state funds.

Effective Date of this Executive Order

This Executive Order shall be effective retroactively to June 30, 2012 and shall remain in full force and effect until June 30, 2013 unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any federal-type benefits granted or to

be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this Third day of July, 2012.

/s/ Robert F. McDonnell  
Governor

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# GENERAL NOTICES/ERRATA

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## ALCOHOLIC BEVERAGE CONTROL BOARD

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Alcoholic Beverage Control Board conducted a small business impact review of **3VAC5-10, Procedural Rules for the Conduct of Hearing Before the Board and Its Hearing Officers**, and determined that this regulation should be retained in its current form. The Alcoholic Beverage Control Board is publishing its report of findings dated May 30, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

The regulation continues to be needed. Hundreds of cases are considered by the board and its hearing officers each year, and procedural rules to bring order to the process are necessary. No complaints or comments were received concerning the regulation from the public. The regulation, while technical, is not particularly complex and it does not overlap, duplicate, or conflict with federal or state law or regulation. It was last reviewed and amended in 2007 and there have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation.

Contact Information: W. Curtis Coleburn, III, Department of Alcoholic Beverage Control, Chief Operating Officer, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, or email [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Alcoholic Beverage Control Board conducted a small business impact review of **3VAC5-11, Public Participation Guidelines**, and determined that this regulation should be retained in its current form. The Alcoholic Beverage Control Board is publishing its report of findings dated May 30, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

The regulation continues to be needed. The board constantly reviews its regulations and promulgates amendments as necessary. No complaints or comments were received concerning the regulation from the public. The regulation, while technical, is not particularly complex and it does not overlap, duplicate, or conflict with federal or state law or regulation. It was adopted in 2008 and there have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation.

Contact Information: W. Curtis Coleburn, III, Department of Alcoholic Beverage Control, Chief Operating Officer, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, or email [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov).

## STATE CORPORATION COMMISSION

### Bureau of Insurance

July 1, 2012

Administrative Letter 2012-07

To: All Insurers Licensed to Write Property and Casualty Insurance in Virginia and All Interested Parties

Re: Certificates of Insurance

Note: All insurers receiving this administrative letter are expected to instruct their currently appointed agents to review it and familiarize themselves with its contents. The letter may be accessed through the Bureau of Insurance website at: <http://www.scc.virginia.gov/boi/adminlets/index.aspx>

In accordance with legislation enacted by the Virginia General Assembly during its 2012 legislative session, (House Bill 867 and Senate Bill 47), the Bureau of Insurance (Bureau) will, effective July 1, 2012, enforce the provisions of a new statute within Title 38.2 of the Code of Virginia relating to certificates of insurance. Virginia Code § 38.2-518 prohibits unfair trade practices relating to the issuance of false or misleading certificates of insurance. The language in § 38.2-518 extends the Bureau's authority to any person involved with the issuance of a false or misleading certificate of insurance, including certificateholders, policyholders, insurers, and insurance producers.

Insurance producers play a pivotal role in preventing violations of this statute, and educating clients is a key factor in resolving issues without intervention from the Bureau. The Bureau suggests that a copy of this administrative letter be given to any client seeking certificates of insurance at the time of renewal, when a new certificate is requested, or any time the insurance producer believes it is appropriate.

While the law makes it clear that a certificate of insurance must accurately reflect the policy of insurance, there is nothing in the law that prohibits consumers from asking insurance producers for broader insurance coverage, terms, or conditions. There also is no prohibition against consumers seeking out other producers or insurers that may be willing to provide the needed insurance coverage, terms, or conditions. These acts do not constitute a violation of this statute.

The Bureau will not become involved in contractual disputes involving quality of work, deadlines, or any other matter with the exception of a documented request for, or issuance of, a certificate of insurance that contains false or misleading information. Consequently, a fully agreed upon legal contract between persons prior to the provision of goods or services requiring specific insurance coverage, terms, or conditions is not a matter for the Bureau.

When a consumer demands that a certificate of insurance with false or misleading information be produced, the insurance producer should take the following steps:

- Talk to the person about why the demand is a violation of Virginia law and offer to give the person a copy of this administrative letter as confirmation of the law's requirements. Encourage the person to contact the Bureau if he has questions.
- Whenever possible, follow-up any verbal communication with written communication documenting the conversation.
- Save all relevant communications from the person demanding a false or misleading certificate of insurance including letters or emails.

The Bureau cannot investigate complaints without specific information regarding the person who is making the demand for a false or misleading certificate of insurance. Anyone who contacts the Bureau to make a formal complaint should be prepared to provide the information in writing.

The actual text of House Bill 867 and Senate Bill 47, including § 38.2-518, may be accessed via the link below: <http://lis.virginia.gov/lis.htm>. Questions regarding this administrative letter may be directed to: George Lyle, P&C Consumer Services, Bureau of Insurance, P.O. Box 1157, Richmond, Virginia 23218, (804) 371-9185 (telephone), (804) 371-9349 (FAX).

/s/ Jacqueline K. Cunningham  
Commissioner of Insurance

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July 9, 2012

Administrative Letter 2012-08

To: All Insurers Licensed to Write Accident and Sickness Insurance, all Health Services Plans and all Health Maintenance Organizations Licensed in Virginia and all Interested Parties

Re: Summary of Benefits and Coverage and Uniform Glossary

Effective September 23, 2012, subject to certain exceptions identified in the federal law and regulations, all carriers issuing comprehensive major medical coverage are required under the federal Patient Protection and Affordable Care Act (PPACA), to provide to consumers Summary of Benefits and Coverage and Uniform Glossary forms. Links to the prescribed content, format and overall presentation of both forms, along with links to related information concerning the forms' use, may be found on the Centers for Medicare and Medicaid Services' Center for Consumer Information and Insurance Oversight (CCIIO) website at <http://cciio.cms.gov/resources/other/index.html#sbcug>. All carriers are responsible for reviewing this information and

ensuring their ongoing compliance with all applicable requirements associated with the use of these forms.

The purpose of this administrative letter is to provide carriers with guidance and clarification concerning form filing requirements and general regulatory enforcement in Virginia in connection with these forms.

These forms presented in their exact prescribed format and content are exempt from form filing and approval requirements. Therefore, carriers who use these forms with no modifications to their prescribed content and format will not be required to submit them to the Commission for prior approval or filing.

In accordance with Virginia Code § 38.2-3446, the Bureau will, through its market conduct examinations and its investigations of consumer complaints, review carriers' use of these forms to ensure they are being provided to consumers in both manner and format consistent with applicable requirements. Carriers found to have either failed to provide the forms or to have provided forms that are inconsistent in any way with their prescribed format and/or content, will be subject to regulatory action in accordance with Virginia Code §§ 38.2-218 and 38.2-219.

Questions or requests for clarification regarding this letter should be directed to: Mary Ann Mason, Supervisor, Forms and Rates Section, Life and Health Division, telephone (804) 371-9348, or email [maryann.mason@scc.virginia.gov](mailto:maryann.mason@scc.virginia.gov).

/s/ Jacqueline K. Cunningham  
Commissioner of Insurance

## CRIMINAL JUSTICE SERVICES BOARD

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Criminal Justice Services Board conducted a small business impact review of **6VAC20-80, Rules Relating to Certification of Criminal Justice Instructors**, and determined that this regulation should be retained in its current form. The Criminal Justice Services Board is publishing its report of findings dated May 23, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

The continued need for this regulation is to ensure compliance of the certification of criminal justice instructors, as required in § 9.1-102 of the Code of Virginia. No comments or complaints were received from the public regarding this regulation. Written as simply as possible, this regulation does not overlap, duplicate, or conflict with federal or state law. This regulation was last reviewed in 2008 and there have been no changes in technology, economic conditions, or other factors that would necessitate an amendment or repeal of this regulation. The agency has determined that this regulation does not need to be amended

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## General Notices/Errata

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or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Contact Information: Lisa McGee, Department of Criminal Justice Services, 1100 Bank Street, 12th Floor, Richmond, VA 23219, telephone (804) 371-2419, FAX (804) 786-6040, or email [lisa.mcgee@dcjs.virginia.gov](mailto:lisa.mcgee@dcjs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Criminal Justice Services Board conducted a small business impact review of **6VAC20-90, Rules Relating to Regional Criminal Justice Training Academies**, and determined that this regulation should be retained in its current form. The Criminal Justice Services Board is publishing its report of findings dated May 23, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

The continued need for this regulation is to ensure compliance of regional criminal justice training academies, as required in § 9.1-102 of the Code of Virginia. No comments or complaints were received from the public regarding this regulation. Written as simply as possible, this regulation does not overlap, duplicate, or conflict with federal or state law. This regulation was last reviewed in 1998 and there have been no changes in technology, economic conditions, or other factors that would necessitate an amendment or repeal of this regulation. The agency has determined that this regulation does not need to be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Contact Information: Lisa McGee, Department of Criminal Justice Services, 1100 Bank Street, 12th Floor, Richmond, VA 23219, telephone (804) 371-2419, FAX (804) 786-6040, or email [lisa.mcgee@dcjs.virginia.gov](mailto:lisa.mcgee@dcjs.virginia.gov).

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Restore Water Quality in the Little Otter River Watershed and the Buffalo Creek Watershed

Public meeting: Forest Library, 15583 Forest Road, Forest, VA 24551 - Tuesday, August 14, 2012, from 7 p.m. to 9 p.m.

Directions: From Lynchburg: Take 221 South. The Library is located on the left, approximately 2 miles past the Graves Mill shopping center, between Thomas Jefferson Road and Two Church Lane. From Bedford: Take 221 North for approximately 15 miles. The Library will be located on the right, between Thomas Jefferson Road and Two Church Lane.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) announces a public meeting to discuss a study to restore water quality in the Little Otter River watershed and the Buffalo Creek watershed.

Description of study: Virginia agencies are working to identify sources of biological impairment (general standard) in the Little Otter watershed and the Buffalo Creek watershed. DEQ's monitoring data indicates that water quality does not support a natural aquatic invertebrate community.

The following is the "impaired" stream, the length of the impaired segment, location, and the reason for the impairment: Johns Creek, 2.13 miles, Bedford City and Bedford County, general standard (aquatic invertebrate community); Little Otter River, 21.62 miles, Bedford City and Bedford County, general standard (aquatic invertebrate community); Wells Creek, 3.78 miles, Bedford County, general standard (aquatic invertebrate community); Buffalo Creek, 8.09 miles, Bedford and Campbell Counties, general standard (aquatic invertebrate community).

DEQ, in cooperation with the Virginia Department of Conservation and Recreation and other state and local agencies, is developing a total maximum daily load (TMDL) study for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the amount determined during the TMDL study.

How to comment: DEQ accepts written comments by email, fax, or postal mail. Written comments should include the name, address, and telephone number of the person commenting and be received by September 13, 2012. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact: For additional information or to submit comments, contact Mary Dail, Virginia Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, or email: [mary.dail@deq.virginia.gov](mailto:mary.dail@deq.virginia.gov).

### DEPARTMENT OF ENVIRONMENTAL QUALITY AND DEPARTMENT OF CONSERVATION AND RECREATION

#### Total Maximum Daily Load for the Moores Creek Watershed

The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the revision of a total maximum daily load (TMDL) implementation plan (IP) for the Moores Creek watershed in the City of Charlottesville and Albemarle County. Moores Creek was originally listed as impaired in the 1998 § 303(d) Report for violations of the water quality standard for fecal coliform bacteria. A TMDL for bacteria was developed for Moores Creek and approved by EPA May 2002. A copy of the TMDL is available on DEQ's website at: <http://www.deq.state.va.us/Programs/Water/WaterQualityInfo>

[mationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx](http://www.deq.state.va.us/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx)).

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts. A TMDL IP was completed for Moores Creek in February 2005. In 2012, the Rivanna River Basin Commission (RRBC) was approved to receive EPA Section 319 grant funds to implement the plan subject to approval of the plan by EPA. Following a review by EPA Region III staff, the TMDL IP was found to be ineligible to receive § 319 funding due to failures to: demonstrate expected load reductions from implementation actions, document public participation in IP development, and provide detailed implementation timeline with associated goals and milestones. In order to meet funding eligibility criteria, this implementation plan is undergoing a revision by the RRBC in cooperation with DEQ and DCR.

The draft revised IP will be available for review on the web no later than July 30, 2012, at: <http://www.deq.state.va.us/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLImplementation/TMDLImplementationPlans.aspx>.

The public comment period for this IP revision will end on Friday, August 31, 2012. Questions or information requests should be addressed to Nesha McRae, DCR. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nesha McRae, Department of Conservation and Recreation, 44 Sangers Lane, Suite 102, Staunton, VA 24401, telephone (540) 332-9238, or email [nesha.mcrae@dcr.virginia.gov](mailto:nesha.mcrae@dcr.virginia.gov).

## STATE BOARD OF HEALTH

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Board of Health conducted a small business impact review of **12VAC5-530, Regulations Governing the Virginia Medical Scholarship Program**, and determined that this regulation should be retained in its current form. The State Board of Health is publishing its report of findings dated April 12, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

This regulation is necessary to increase access to quality primary care by Virginia residents in medically underserved areas. Public comments were not received regarding this regulation. The regulation is very straightforward and does not overlap or duplicate other regulations. This regulation was last evaluated in 2009. This regulation is not burdensome to small businesses and, in fact, may be of benefit to the

establishment of physician practices (which are small businesses) in Virginia.

Contact Information: Joe Hilbert, Director of Governmental and Regulatory Affairs, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone 804-864-7006 or email [joe.hilbert@vdh.virginia.gov](mailto:joe.hilbert@vdh.virginia.gov).

## LIBRARY OF VIRGINIA (LIBRARY BOARD)

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Library Board conducted a small business impact review of **17VAC15-120, Regulations Governing the Destruction of Public Records Containing Social Security Numbers**, and determined that this regulation should be retained in its current form. The Library Board is publishing its report of findings dated June 20, 2012, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

1. A continued need exists for this regulation. It establishes procedures for the disposal, physical destruction, or other disposition of public records containing social security numbers. It applies only to those records whose retention periods have expired.

2. No complaints were received concerning the regulation from the public during the comment period. In fact, the two commentators clearly argued for the need to prevent the use of and/or eliminate social security numbers from public documents.

3. Virginia is one of 45 states in the country with laws or regulations detailing the proper handling and destruction of public documents containing social security numbers. The regulation is clear and simple to follow. Specifically, 17VAC15-120-10 directs that any record containing social security numbers must be destroyed within six months of the expiration of the records retention period. Documents can be shredded if the records are pulped or incinerated, or baled to be pulped or incinerated, which renders the identifying information "...unreadable or undecipherable by any means." Hard drives may be either overwritten or degaussed. An overwritten hard drive can be used again to store data but a degaussed hard drive is exposed to a strong magnetic field, leaving the hard drive permanently unusable.

4. While there are federal laws like the Health Insurance Portability Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA), as well as state regulations like the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq. of the Code of Virginia), that govern the collection, maintenance, use, and sharing of personal information, 17VAC15-120 is the only one that details the destruction of documents with social security numbers once the retention period for the record has expired.

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## General Notices/Errata

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5. Only three years have passed since the regulation governing the elimination of social security numbers from public documents has been in effect (December 23, 2008), and it remains relevant to the paper and electronic documents it was written to address.

6. The Library Board, through examination of the regulation and relevant public comments, has determined that the regulatory requirements minimize the economic impact of these regulations on small businesses since the regulations affect only public records and thereby have only a minimal impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Janice Hathcock, Public Relations Coordinator, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219, telephone (804) 692-3592, FAX (804) 692-3594, or email [jan.hathcock@lva.virginia.gov](mailto:jan.hathcock@lva.virginia.gov).

### STATE LOTTERY DEPARTMENT

#### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on June 29, 2012. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 201 N. 9th Street, 2nd Floor, Richmond, VA.

#### Director's Order Number Fifty-Five (12)

Virginia's Instant Game Lottery 1354; "Monopoly" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Fifty-Seven (12)

Virginia's Instant Game Lottery 1349; "Find The 9'S" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Fifty-Eight (12)

Virginia's Instant Game Lottery 1352; "Double Match" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Fifty-Nine (12)

Virginia's Instant Game Lottery 1345; "Black Gold" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty (12)

Virginia's Instant Game Lottery 1340; "Hit \$20,000" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty-One (12)

Virginia's Instant Game Lottery 1357; "Black Jack" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty-Two (12)

Virginia's Instant Game Lottery 1331; "Hang 10" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty-Three (12)

Virginia's Instant Game Lottery 1351; "Flying Aces" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty-Four (12)

Virginia's Instant Game Lottery 1348; "Some Like It Hot" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty-Five (12)

Virginia's Instant Game Lottery 1355; "10X The Money" Final Rules for Game Operation (effective June 29, 2012)

#### Director's Order Number Sixty-Nine (12)

"On The Spot Awards" Virginia Lottery Retailer Incentive Program Rules (effective June 29, 2012)

#### Director's Order Number Seventy (12)

"Retailer Recruitment Incentive Plan" Virginia Lottery Retailer Incentive Program Rules (effective June 29, 2012, and remain in full force and effect until 90 days after the conclusion of the Incentive Program)

### STATE WATER CONTROL BOARD

#### Proposed Consent Special Order for Carter Oaks, LLC

An enforcement action has been proposed for Carter Oaks, LLC for alleged violations at Carter Oaks Subdivision, Section C, Henrico County, VA. The State Water Control Board proposes to issue a consent special order to Carter Oaks, LLC to address noncompliance with State Water Control Board law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Gina Pisoni will accept comments by email at [gina.pisoni@deq.virginia.gov](mailto:gina.pisoni@deq.virginia.gov), FAX (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from July 30, 2012, to August 31, 2012.

#### Proposed Consent Order for King George County Service Authority

An enforcement action has been proposed for King George County Service Authority for violations of the State Water Control Law and Regulations in King George County. The State Water Control Board proposes to issue a consent order resolving violations at the Dahlgren District Waste Water Treatment Plant. A description of the proposed action is available at the DEQ office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Daniel Burstein will accept comments



by email at [daniel.burstein@deq.virginia.gov](mailto:daniel.burstein@deq.virginia.gov), FAX (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from July 31, 2012, through August 31, 2012.

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

Contact Information: Mailing Address: Virginia Code Commission, 201 N. 9th Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; Telephone: Voice (804) 786-3591; FAX (804) 692-0625; Email: [varegs@dls.virginia.gov](mailto: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 <http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>.

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/cumultab.htm>.

## ERRATA

### STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **9VAC5-80. Permits for Stationary Sources (amending 9VAC5-80-310 through 9VAC5-80-350, 9VAC5-80-2250 through 9VAC5-80-2290; adding 9VAC5-80-2310 through 9VAC5-80-2350; repealing 9VAC5-80-2300).**

Publication: 28:22 VA.R. 1674-1684 July 2, 2012.

Correction to Final Regulation:

Page 1681, subdivision 2 a of 9VAC5-80-2280, line 4, change "http://www.bls.gov/cpi/home.htm" to "http://data.bls.gov/cgi-bin/surveymost?cu"

VA.R. Doc. No. R12-3210; Filed July 11, 2012, 9:12 a.m.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

Title of Regulation: **9VAC15-60. Small Renewable Energy Projects (Solar) Permit by Rule (adding 9VAC15-60-10 through 9VAC15-60-140).**

Publication: 28:21 VA.R 1640-1649 June 18, 2012.

Correction to Final Regulation:

Page 1648, section titled "DOCUMENTS INCORPORATED BY REFERENCE (9VAC15-60)" should be as follows:

~~[ DOCUMENTS INCORPORATED BY REFERENCE (9VAC15-60)~~

~~The Natural Communities of Virginia, Classification of Ecological Community Groups, Second Approximation (Version 2.4) 2011, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, Virginia.~~

~~Virginia's Comprehensive Wildlife Conservation Strategy, 2005, Virginia Department of Game and Inland Fisheries, Richmond, Virginia.~~

~~[Chapter 1: Introduction.](#)~~

~~[Chapter 2: Methods.](#)~~

~~[Chapter 3: Statewide Overview.](#)~~

~~[Chapter 4: Virginia's Mid-Atlantic Coastal Plain.](#)~~

~~[Chapter 5: Virginia's Southern Appalachian Piedmont.](#)~~

~~[Chapter 6: Virginia's Blue Ridge Mountains.](#)~~

~~[Chapter 7: Virginia's Northern Ridge and Valley.](#)~~

~~[Chapter 8: Virginia's Northern Cumberland Mountains.](#)~~

~~[Chapter 9: Virginia's Southern Cumberland Mountains.](#)~~

~~[Chapter 10: Conclusions.](#)~~

~~[Glossary.](#)~~

~~[Appendix A: The Species of Greatest Conservation Need.](#)~~

~~[Appendix B: Species of Greatest Conservation Need with No Known Ecoregional Associations.](#)~~

~~[Appendix C: Terrestrial Species with No Landcover Associations.](#)~~

~~[Appendix D: Potential Habitat Mapping for Terrestrial & Aquatic Tier I Species.](#)~~

~~[Appendix E: List of Tier I Species and Reviewers.](#)~~

~~[Appendix F: Complete list of Stress/Source Combinations Identified by the Taxonomic Advisory Committees.](#)~~

~~[Appendix G: Habitat Grouping Used by TACs in Assessment of Threats, Conservation Actions, and Research/Monitoring Needs.](#)~~

~~[Appendix H: Threats to Virginia's Species of Greatest Conservation Need.](#)~~

~~[Appendix I: Conservation Actions Identified by the Taxonomic Advisory Committees.](#)~~

~~[Appendix J: Research and Monitoring Needs Identified by the Taxonomic Advisory Committees.](#)~~

~~[Appendix K: Landcover Classes.](#)~~

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## General Notices/Errata

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[Appendix L: Summaries of Community Meetings Facilitated by VCU's Center for Public Policy.](#)

[Appendix M: Recommendations for Education and Outreach Actions.](#)

[Appendix N: DEQ Impaired Waters Map.](#)

[Appendix O: Reference Maps.](#)

[Appendix P: Public Comments.](#) ]

VA.R. Doc. No. R10-2506; Filed July 19, 2012, 9:05 a.m.