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Fast-Track Regulation Agency Background Document

Agency name	Department of Motor Vehicles
Virginia Administrative Code (VAC) Chapter citation(s)	24VAC20-121-180
VAC Chapter title(s)	Class A instructor license requirements
Action title	Amend Class A Instructor License Requirements to remove certain requirements
Date this document prepared	06/04/24

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

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

The Department of Motor Vehicles intends to consider amending section 24VAC20-121-180. Class A instructor license requirements. to remove the requirement that the applicant for a Class A instructor's license must possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, for a period of least three years in the first paragraph of subsection A and remove the second paragraph of subsection A. The removal of requirements from these subsections would reduce the regulatory burden on driver training school businesses while not detrimentally affect any citizens of the Commonwealth, therefore, DMV anticipates that the proposed regulatory action would be noncontroversial and appropriate for the fast-track rulemaking process found in § 2.2-4012.1 of the Code of Virginia.

Acronyms and Definitions

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

“DMV” means Department of Motor Vehicles.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Commissioner adopted these amendments on May 8, 2024. DMV intends to remove the requirement that the applicant for a Class A instructor's license must possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, for a period of least three years in the first paragraph of subsection A and remove the second paragraph of subsection A in 24VAC20-121-180. Class A instructor license requirements.

Mandate and Impetus

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

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

DMV concluded a review of its regulations as part of the ongoing regulatory reduction process mandated by Executive Order 19 and determined that these changes would reduce the regulatory burden on driver training school businesses while not detrimentally affecting citizens of the Commonwealth. DMV determined that the proposed regulatory change would reduce the regulatory burden on driver training school businesses while not detrimentally affecting citizens of the Commonwealth. As such, DMV anticipates that the proposed regulatory action would be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

DMV regulations are promulgated under the general authority of § 46.2-203 of the Code of Virginia which grants DMV statutory authority to promulgate regulations “necessary to carry out the laws administered by the Department.” § 46.2-1703 of the Code of Virginia authorizes DMV to “promulgate regulations

necessary to (i) enforce the provisions of [§ 46.2-1700 et seq.], (ii) provide adequate training for students, (iii) protect student and public safety and (iv) carry out the other provisions of [§ 46.2-1700 et seq.].” § 46.2-1703 of the Code of Virginia states that these regulations “shall include but need not be limited to curriculum requirements, contractual arrangements with students, obligations to students, facilities and equipment, qualifications and other requirements for instructors, school ownership requirements, surety bond requirements, and financial stability of schools.”

Purpose

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

The proposed regulatory change would reduce the regulatory burden on driver training school businesses while not detrimentally affecting the health, safety, or welfare of citizens of the Commonwealth.

Substance

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

This regulatory action would remove the requirement that the applicant for a Class A instructor's license must possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, for a period of least three years in the first paragraph of subsection A and remove the second paragraph of subsection A in 24VAC20-121-180.

24VAC20-121-180(A) mandates that applicants for a Class A instructor's license must possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, and that has been held by the applicant for at least three years. The proposed regulatory change would eliminate this requirement because it is inconsistent with the federal Entry Level Driver Training regulations.

24VAC20-121-180(A) additionally establishes a method by which applicants for a Class A instructor's license who do not have a high school diploma may be licensed. The applicant must provide evidence, in a format prescribed by DMV, that they (i) have at least one year of previous Class A instructing experience or (ii) have successfully completed a Class A driver training course and a minimum of 160 hours of Class A instructor training provided by the hiring school. The high school diploma requirement for Class A driver training instructors is inconsistent with the federal Entry Level Driver Training regulations. In a separate regulatory action, DMV is proposing to repeal the high school diploma requirement for individuals seeking to obtain a Class A instructor's license found in 24VAC20-121-100(I). As the high school diploma requirement for Class A driver training instructors is being repealed, DMV has determined that this requirement should be repealed to avoid any confusion from applicants for a Class A instructor's license.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public.

If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The proposed regulatory action does not present any disadvantages to the public or the Commonwealth. The advantage to the public and the Commonwealth is that this regulatory action would remove unnecessary regulatory requirements from DMVs regulations and lessen the regulatory burden on driver training school businesses.

Requirements More Restrictive than Federal

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

There are not requirements of the regulatory change that are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

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

Other State Agencies Particularly Affected

DMV does not anticipate that any other state agencies will be affected by this change.

Localities Particularly Affected

DMV does not anticipate that any localities will be affected by this change.

Other Entities Particularly Affected

The proposed regulatory change would have a positive impact on driver training school businesses by reducing their regulatory burden.

Economic Impact

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

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources 	<p>There are no projected costs, savings, fees or revenues for DMV resulting from the proposed regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no projected costs, savings, fees or revenues for other state agencies resulting from the proposed regulatory change.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The proposed regulatory action would remove unnecessary regulatory requirements from DMV's regulations.</p>

Impact on Localities

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

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>There are no projected costs, savings, fees or revenues for localities resulting from the proposed regulatory change.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>There are no benefits to localities resulting from the proposed regulatory change.</p>

Impact on Other Entities

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

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Class A driver training school businesses</p>
<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. 	<p>DMV records indicate that the proposed regulatory action would affect the 30 existing Class A driver training school businesses. All, or almost all, of these entities would be considered small businesses.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; 	<p>DMV does not have specific data related to the projected costs saved by the proposed regulatory change, but can infer that the elimination of the regulatory requirements would likely result in some degree of benefit to the affected driver training school businesses in the time required to comply with the requirements.</p>

b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	The proposed regulatory action would reduce the regulatory burden on driver training school businesses.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The sole alternative to this regulatory action is maintenance of the status quo. This alternative is discussed in Table 1b of the ORM Economic Impact Form.

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

Regulatory Flexibility Analysis

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

As the proposed regulatory action would remove a regulatory requirement entirely, there are no alternative regulatory methods that would accomplish this goal in a less stringent manner.

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

Public Participation

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

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

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

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

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

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Nicholas Megibow at nicholas.megibow@dmv.virginia.gov or Nicholas Megibow, Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia 23269. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

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

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

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
24VAC20-121-180(A)		Applicants for a Class A instructor's license must possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements	Applicants for a Class A instructor's license would no longer be required to have held a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, for at least three

		for the type of instruction they intend to provide, and that has been held by the applicant for at least three years.	years. DMV is seeking to remove this requirement because it is inconsistent with the federal Entry Level Driver Training regulations.
24VAC20-121-180(A)		Applicants for a Class A instructor's license who do not have a high school diploma may be licensed if they provide evidence, in a format prescribed by DMV, that they (i) have at least one year of previous Class A instructing experience or (ii) have successfully completed a Class A driver training course and a minimum of 160 hours of Class A instructor training provided by the hiring school.	The high school diploma requirement for Class A driver training instructors is inconsistent with the federal Entry Level Driver Training regulations. In a separate regulatory action, DMV is proposing to repeal the high school diploma requirement for individuals seeking to obtain a Class A instructor's license found in 24VAC20-121-100(I). As the high school diploma requirement for Class A driver training instructors is being repealed, DMV has determined that this requirement should be repealed to avoid any confusion from applicants for a Class A instructor's license.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

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

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

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

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

Table 3: Changes to the Emergency Regulation

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