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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Commission on Virginia Alcohol Safety Action Program
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24VAC35-70
<b>VAC Chapter title(s)</b>	Remote Alcohol Monitoring Device Regulations
<b>Action title</b>	Amendments to Virginia's Remote Alcohol Monitoring Regulations
<b>Date this document prepared</b>	July 1, 2026

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

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Commission on the Virginia Alcohol Safety Action Program (VASAP) proposes amendments to 24VAC35-70, Remote Alcohol Monitoring Regulations, to modernize and strengthen Virginia's statewide remote alcohol monitoring program and align regulatory requirements with current operational practices, technology, and Commission oversight responsibilities.

The proposed regulatory action is intended to enhance public safety, improve accountability and reliability in offender alcohol monitoring, strengthen oversight of remote alcohol monitoring manufacturers and service providers, and ensure consistent statewide administration of court-ordered alcohol monitoring services. The amendments further update technical standards, reporting requirements, confidentiality protections, and certification procedures.

## Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

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“Commission” means the Commission on Virginia Alcohol Safety Actin Program (VASAP), as established pursuant to §18.2-273.2 of the Virginia Code, or its designee.

“Executive Finance Committee” means the advisory subcommittee of the Commission, composed of the executive director and other members that the Commission may designate, which is authorized to take action on behalf of the Commission for a period not to exceed 90 days in matters of program certification, suspension, or related fiscal oversight.

“Manufacturer” means the entity that is responsible for the design, production, and distribution of remote alcohol monitoring devices to service providers.

“Remote Alcohol Monitoring Device” means an unsupervised mobile testing device with the ability to confirm the location and presence of alcohol in a person and that is capable of scheduled, random, and on-demand tests that provide immediate, or as-requested results. A testing device may be worn or used by persons ordered by the court to provide measurements of the presence of alcohol in their blood via breath or bodily fluid.

“Service Provider” means an authorized entity that provides orientation of approved remote alcohol monitoring devices for manufacturer. Among other activities, service providers may calibrate and perform routine maintenance of devices as well as provide required reports and testify in court. In some cases, the service provider may also be a manufacturer of a remote alcohol monitoring device.

“VASAP” means the Commission on the Virginia Alcohol Safety Action Program (VASAP).

## 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.”*

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Per Virginia Code 18.2-273.9, the Commission shall promulgate such regulations and forms as are necessary to implement the Remote Alcohol Monitoring Program. This regulatory action is initiated pursuant to the Commission’s statutory authority to administer and oversee Virginia’s remote alcohol monitoring program and to promulgate regulations governing remote alcohol monitoring devices, manufacturers, and service providers.

The impetus for this action includes the need to modernize and clarify existing regulations, align requirements with current technology and operational practices, strengthen oversight and accountability, and improve statewide consistency in the delivery of remote alcohol monitoring services. The regulations are intended to ensure that remote alcohol monitoring services remain reliable, accessible, and effective while maintaining appropriate safeguards for public safety, offender privacy, and program integrity.

## 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.*

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The Commission on VASAP is a state legislative agency that is charged in Virginia Code 18.2-273.9 with promulgating the regulations and forms that are necessary to implement the Remote Alcohol Monitoring Program. Additional authority includes applicable provisions of Chapter 686 and Chapter 687 of the 2026 Acts of Assembly (HB862/SB391), which revise and strengthen Commission authority and statewide oversight responsibilities relating to VASAP-administered programs.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The Commission on VASAP is charged with promulgating the Remote Alcohol Monitoring regulations per Virginia Code 18.2-273.9. The regulations are essential in establishing a framework and parameters for a successful program. The Commission has determined that these regulations are necessary to protect the public health, safety, and welfare by ensuring that remote alcohol monitoring devices used in Virginia operate reliably and are administered under consistent statewide standards. Remote alcohol monitoring technology serves as an important public safety and offender accountability tool by enabling courts and supervising agencies to monitor alcohol use and compliance with court-ordered abstinence requirements.

The proposed amendments strengthen oversight of manufacturers, service providers, devices, and personnel; improve monitoring and reporting requirements; and enhance protections against tampering, confidentiality breaches, cybersecurity risks, and service disruptions.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The proposed amendments include both technical and substantive revisions to 24VAC35-70.

Substantive changes under consideration include:

1. Updating and clarifying definitions and terminology governing remote alcohol monitoring devices, manufacturers, service providers, technicians, and offender monitoring.

2. Expanding Commission and Executive Finance Committee authority relating to suspension or revocation of remote alcohol monitoring device or service facility certification.
3. Strengthening calibration, monitoring, and alcohol violation reporting requirements, including timelines for reporting alcohol-related violations, tampering events, and monitoring results to local ASAPs.
4. Strengthening records management, cybersecurity, confidentiality, and electronic reporting requirements governing remote alcohol monitoring data and offender information.
5. Revising technician and state director certification requirements and processes.

These amendments are intended to strengthen statewide consistency, improve public safety and program accountability, and ensure continued effectiveness and reliability of Virginia’s remote alcohol monitoring program.

**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.*

There are no alternatives as creation of these regulations by the Commission on VASAP is a Virginia Code requirement. The proposed amendments are intended to represent the least burdensome regulatory approach that achieves the Commonwealth’s public safety and offender monitoring objectives while preserving operational flexibility for manufacturers and service providers. Existing fee limitations, indigency provisions, and performance-based standards are intended to mitigate financial and operational burdens while maintaining necessary program integrity and statewide consistency.

**Periodic Review and Small Business Impact Review Announcement**

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”*

This NOIRA is not being used to announce a periodic review or a small business impact review.

**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. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

**INSERT:**

The Commission on VASAP is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

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:

Christopher Morris  
Commission on VASAP  
1111 E. Main St. Suite 801  
Richmond, VA 23219  
(804) 786-5895  
(804) 786-6286 (FAX)  
[chris.morris@vasap.virginia.gov](mailto:chris.morris@vasap.virginia.gov)

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.