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Proposed Regulation
Agency Background Document

Agency name	Commission on Virginia Alcohol Safety Action Program
Virginia Administrative Code (VAC) Chapter citation(s)	24VAC35-70
VAC Chapter title(s)	Remote Alcohol Monitoring Device Regulations
Action title	Amendments to Virginia's Remote Alcohol Monitoring Regulations
Date this document prepared	August 27, 2026

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 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 used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"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."

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.

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

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 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, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

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.

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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.

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.

Remote alcohol monitoring devices protect the public by ensuring that persons prohibited from drinking by court order adhere to their probationary requirements. Courts, ASAP, and probationary agencies will have the benefit of receiving real-time information about offenders they supervise.

The Virginia Code permits individuals convicted of a 2nd or subsequent DUI offense to drive with the sole driving restriction of ignition interlock, provided they also have a remote alcohol monitoring device for the same period. This provides these individuals with the ability to drive at any time and to any location if they are operating a vehicle with an ignition interlock installed allowing the individual to meet employment and personal appointment demands.

There are no disadvantages noted to the public or the Commonwealth.

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 no 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

These are amended regulations which focus on strengthening service provider services, records management, reporting, and certification requirements, therefore; other state agencies, localities, and other entities are not negatively impacted.

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

For your agency: projected costs, savings, fees, or revenues resulting from the regulatory change, including: 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.	The amended regulations do not impact this area.
For other state agencies: projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	The amended regulations do not impact this area.
For all agencies: Benefits the regulatory change is designed to produce.	The amended regulations do not impact this area.

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.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	The amended regulations do not impact this area.
Benefits the regulatory change is designed to produce.	The amended regulations do not impact this area.

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.

Description of the individuals, businesses, or other entities likely to be affected by the	Since the service providers are already compliant with the amended regulations related to records

regulatory change. If no other entities will be affected, include a specific statement to that effect.	management and cybersecurity, the amended regulations do not impact this area.
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: 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.	Since the service providers are already compliant with the amended regulations related to records management and cybersecurity, the amended regulations do not impact this area.
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: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; 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.	Since the service providers are already compliant with the amended regulations related to records management and cybersecurity, the amended regulations do not impact this area.
Benefits the regulatory change is designed to produce.	Enhanced service provider data confidentiality and security requirements along with technician certification requirements.

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 are 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.

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.

The Commission on VASAP is charged by statute with promulgating uniform regulations for the Commonwealth's Remote Alcohol Monitoring Program. Alternative regulatory methods, less stringent requirements, or exemptions for small businesses are not feasible as consistent statewide standards are vital to public safety and statutory compliance.

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.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This form is not being used to report the results of a periodic review/small business impact review.

Public Comment

<u>Summarize</u> all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response

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.

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, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of 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:

Christopher Morris
Commission on VASAP
1111 E. Main St. Suite 801
Richmond, VA 23219
(804) 786-5895
(804) 786-6286 (FAX)
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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 this stage of this regulatory action.

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 the existing VAC Chapter(s) and the proposed regulation. If the 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
24VAC35-70-10		Definitions	Definitions modified for style and to match new Virginia Code language. No impact.

24VAC35-70-30		Language regarding approval of manufacturers	Changes made due to style and reference to an out-of-date Federal law. No impact.
24VAC35-70-40		Remote facility certification	Minor style changes. No impact.
24VAC35-70-50		Remote device specifications and certification	Minor style changes and relocation of certain definitions to this section. No impact.
24VAC35-70-60		Remote fees	Minor style changes and language prohibiting service providers from charging deposits or requiring a co-signor prior to providing services. Enhances client services.
24VAC35-70-70		Remote device or facility suspension or revocation	Extends the suspension period from 30 to 90 days of a service provider by the Executive Finance Committee, adds certification suspension/revocation reasons, and includes style changes. Positively impacts the integrity of the state-wide RAM program.
24VAC35-70-80		Remote device orientation	Minor style changes and added clarity on the remote orientation process. Enhances client services.
24VAC35-70-90		Remote calibration and monitoring	Minor style changes. No impact
24VAC35-70-100		Remote device retrieval	Minor style changes. No impact.
24VAC35-70-110		Records and reporting	Language to strengthen reporting requirements related to client data confidentiality and security. Increased data confidentiality and security.
24VAC35-70-120		Remote manufacturer requirements	Adds time frames for violation and circumvention reporting by the service provider to the ASAP. Enhances workflow processes.
24VAC35-70-130		Service provider technician certification	Makes clear the Executive Director may deny, revoke, suspend or terminate technician certifications, adds reasons for such action, provides a timeframe on administrative appeal requests, and makes clear technicians who are no longer employed with a service provider must re-certify upon rehire or hiring by another service provider. Positively impacts program integrity and operations.