Proposed Regulation
Agency Background Document

Agency name	Commission on Virginia Alcohol Safety Action Program
Virginia Administrative Code (VAC) Chapter citation(s)	24VAC35-80
VAC Chapter title(s)	Alcohol Safety Action Program
Action title	Amendments to the Virginia Alcohol Safety Action Program Regulations
Date this document prepared	August 27, 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 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 24VAC35-80 to implement the provisions of Chapter 686 and 687 of the 2026 Acts of Assembly (HB862/SB391), which revised and reorganized statutory authority governing VASAP and local Alcohol Safety Action Programs (ASAPs). The proposed regulatory action updates existing regulations to align with the newly created Article 2.1 (§18.2-273.1 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia and modernize statewide operational, fiscal, and governance standards for local ASAPs.

The proposed amendments clarify program definitions and organizational structures; establish and define the role of fiscal agent localities; update local policy board governance and accountability requirements; strengthen financial management, reserve fund, audit, and reporting standards; establish procedures governing local government funding obligations and supplemental funding requests; and clarify certification, employee conduct, privacy, and conflict-of-interest requirements. These amendments are intended to ensure statewide consistency, strengthen oversight and fiscal accountability, improve continuity of services, and support the efficient administration of court-ordered alcohol safety and rehabilitation programs.

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.

"Budget" means a written financial plan for expenditures of a program for a given period of time that is subject to approval by the Commission.

"Certification" means the process of certifying local ASAPs as set forth in the Commission on VASAP Certification Manual or the process for certifying local ASAP employees to provide local ASAP services in Virginia and to local ASAP offenders residing out of state.

"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.

"Fiscal Agent Locality" means the county, city, or town pursuant to § 18.2-273.6 of the Code of Virginia that serves as the financial and human resources administrator for a local alcohol safety action program.

"Local ASAP Director" or "ASAP Director" means local ASAP employee responsible for the supervisory, managerial, and operational oversight of a local alcohol safety action program, including supervision of local ASAP employees, fiscal and budgetary management, and compliance with Commission standards and regulations. The term includes any individuals serving in an interim, acting, or deputy capacity.

"Local ASAP Employee" or "ASAP Employee" means any individual employed, appointed, assigned, detailed, or otherwise engaged by a local alcohol safety action program to perform any duties or service, on behalf of, in support of, or under the authority of the local ASAP, regardless of title, classification, funding source, compensation method, schedule, or work location. The term includes full-time, part-time, temporary, probationary, seasonal, intermittent, acting, or detailed personnel and encompasses administrative, supervisory, managerial, executive, operational, compliance, financial, technical, and support roles. The term specifically includes any individual servicing as ASAP director, interim director, acting director, deputy director, or in any equivalent leadership or oversight capacity. Any employee whose duties include, in whole or in part, responsibilities for a local ASAP is deemed an ASAP employee for certification and regulatory purposes. The term excludes instructors, interns, or facilitators who provide services solely as independent contractors under a written contract and who are not otherwise employees of the local ASAP and any policy board member.

"Policy Board" means the local independent ASAP board established pursuant to § 18.2-273.5 of the Code of Virginia to provide local governance, budget approval, and initial approval and work in consultation with the fiscal agent of the local ASAP regarding employee matters of a certified local alcohol safety action program.

"Treatment Provider" means an individual, agency, or organization licensed to provide substance use disorder assessment, education, or treatment services to offenders referred by local ASAPs.

"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."

This regulatory action is mandated by Chapter 686 and 687 of the 2026 Acts of Assembly (HB862/SB391), which amended and reorganized statutory authority governing the Commission on VASAP and local Alcohol Safety Action Programs. HB862 and SB391 repealed and replaced certain prior provisions and created Article 2.1 (§18.2-273.1 et seq.) of Chapter 7 of Title 18.2, directing the Commission to promulgate regulations necessary to implement the act.

The proposed amendments are initiated to conform existing regulations to the revised statutory framework, clarify Commission authority and local program responsibilities, and ensure statewide implementation of new requirements governing local ASAP certification, fiscal administration, policy board governance, and program accountability.

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.

Legal authority for this regulatory action is provided by Chapter 686 and 687 of the 2026 Acts of Assembly (HB862/SB391), which established Article 2.1 (§18.2-273.1 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia and directed the Commission to promulgate regulations necessary to implement the act. Specific authority includes §§18.2-273.2 and 18.2-273.3 of the Code of Virginia, which authorize the Commission to establish standards, approve certification requirements, oversee local program operations and fiscal management, and promulgate regulations necessary to administer the statewide VASAP system. Additional statutory authority includes §§18.2-273.4 through 18.2-273.8 relating to local ASAP operations, fiscal agent localities, policy boards, certification, and related program requirements.

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 has determined that these regulations are necessary to protect the public health, safety, and welfare by ensuring the consistent, accountable, and effective operation of Virginia's statewide alcohol safety action program system. Local ASAPs perform critical public safety functions involving court-ordered monitoring, probation, education, and rehabilitation of offenders involved in alcohol- and substance-related driving offenses and related offenses.

The proposed amendments establish clearer operational standards and strengthen statewide oversight to promote fiscal integrity, continuity of services, transparency, and consistent offender supervision.

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 24VAC35-80.

Substantive changes include:

1. Updating terminology and definitions to conform to the new statutory framework and clarify local ASAP, employee, certification, and governance terminology.
2. Updating local policy board requirements, including Commission authority, to intervene when policy boards fail to meet regulatory obligations.
3. Establishing new requirements for fiscal agent localities and local government funding responsibilities, including funding agreements for multi-jurisdiction programs and procedures governing supplemental or emergency funding.
4. Strengthening fiscal oversight focusing on financial reporting, audit procedures, reconciliation standards, and Commission oversight of financial management.
5. Expanding conflict-of-interest, ethics, employee conduct, and personnel policy requirements.
6. Clarifying privacy and records management requirements for offender files and confidential information.
7. Updating certification and oversight provisions governing local ASAP operations and personnel consistent with Commission authority under HB862 and SB391.
8. Establishing a section regarding data monitoring and approval and use of treatment providers.

These amendments are intended to align regulations with statutory changes and establish uniform statewide standards for program administration and accountability.

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 amendments benefit the public and the Commonwealth by modernizing ASAP operations, clarifying legal definitions, and strengthening fiscal and ethical oversight. There are no disadvantages to the public of the Commonwealth. The changes improve local governance, secure funding stability, protect confidential records, and ensure clear accountability across all participating jurisdictions. The amendments also modernize the regulations to match the new Virginia Code language found in § 18.2-273 pertaining to the Virginia Alcohol Safety Action Program statewide system.

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

No other state agencies are affected.

Localities Particularly Affected

Pursuant to Virginia Code § 18.2-273.6, local ASAP programs must designate a serving locality as a fiscal agent effective January 1, 2028. Furthermore, Virginia Code § 18.2-273.4 requires each participating county, city, or town to provide financial support through annual appropriations or alternative funding mechanisms.

Because the existing network of local ASAP programs is fundamentally stable, these statutory and regulatory provisions do not serve as a remedial function to stabilize distressed programs. Rather, they establish proactive, standardized mechanisms to ensure that these programs remain structurally and financially stable over the long term. Consequently, no individual locality is "particularly affected" by a disproportionate or adverse material impact; instead, the amendments provide all participating local governments with a clear, equitable framework to sustain existing operations.

Other Entities Particularly Affected

No other entities are affected.

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.	There are no impacts.
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.	There are no impacts.
For all agencies: Benefits the regulatory change is designed to produce.	The proposed amendments are designed to produce comprehensive administrative, fiscal, and operational benefits for all participating state and local agencies. By modernizing terminology and aligning definitions with new Virginia Code language pertaining to the VASAP system, the regulations eliminate statutory friction and establish uniform statewide standards for program administration. The integration of explicit Commission intervention authority provides a necessary regulatory backstop, ensuring that lapses in local policy board governance do not compromise broader public safety operations. Fiscally, all involved agencies benefit from strengthened oversight, including rigorous audit procedures, standard financial reporting, and clear multi-jurisdiction funding agreements. This framework secures the systemic health of the ASAP network while providing clear, standardized procedures for emergency or supplemental funding to stabilize lower-reserve areas. Furthermore, the expansion of ethics, conflict-of-interest, and personnel policies mitigates agency liability, while modernized privacy controls secure confidential offender files against compliance failures. Finally, by standardizing data monitoring and vendor approval for treatment providers, the regulations ensure that all agencies operate within a highly reliable, transparent, and legally sound ecosystem.

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.	No net financial burden is imposed on localities. To offset local administrative burdens, fiscal agents may now collect an administrative fee of

	up to 10% of their local program's budget. The statewide ASAP system is highly solvent with approximately $6.5 million in collective reserves. While individual program reserves vary significantly, the regulatory framework provides procedures for supplemental funding. Currently, only two programs require active financial assistance, which is already being managed via open state-office grant submissions for temporary bridge funding.
Benefits the regulatory change is designed to produce.	The amendments are designed to ensure ongoing structural and operational stability for local ASAP programs. By establishing clear guidelines and requirements to ASAPs seeking funding from localities, the regulations prevent requests for unnecessary funding. Additionally, giving the Commission explicit authority to intervene if a local policy board fails its regulatory duties prevents localized operational failures and protects regional public safety interests.

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 regulatory change. If no other entities will be affected, include a specific statement to that effect.	There are 21 local ASAPs throughout the Commonwealth of Virginia which will be positively impacted by the regulations through financial stability and strengthened operational requirements.
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.	21 local ASAPs
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.	There are no impacts.
Benefits the regulatory change is designed to produce.	Please see benefits for all agencies listed in the "Impact on Stage Agencies" table above.

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 regulatory amendments are intended to represent the least burdensome approach consistent with statutory requirements and public safety objectives. The regulations provide flexibility where practicable, including allowing Commission approval of alternative cost allocation methodologies, locally developed funding agreements, and discretionary implementation measures while maintaining necessary statewide accountability standards. Because local ASAPs are local governmental or quasi-governmental entities, the proposed amendments are not expected to impose significant adverse impacts on small businesses beyond those already required by statute.

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 entire VASAP system. 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.*

Although this is a different stage, the prior NOIRA stage was not used to announce a periodic review or a 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)
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 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
24VAC35-80-10		Definitions	Amendment of regulatory definitions to align with new Virginia Code language. No impact.
24VAC35-80-40		Local ASAP administrative structure and accessibility	Minimal style changes. No impact.
24VAC35-80-50		Local ASAP policy boards	Aligns duties of the policy board to align with new Virginia Code language, suspends policy board members for certain criminal charges, and requires programs to possess by-laws that are approved by their fiscal agent. Ensures stability of program operations.
24VAC35-80-60		Local ASAP revenues	Provides extensive requirements and processes for program reserve funds such as minimum reserve levels, investment of reserves, and timely reconciliations of operational and reserve accounts. Ensures stability of program operations.
24VAC35-80-70		Local ASAP audits and financial records	Provides requirements of local programs regarding provision of monthly financial reports to the Commission on ASAP and consequences of not doing so within time requirements. Requirements for annual audits are also included. Ensures stability of program operations.
24VAC35-80-80		Local ASAP budgets	Requires local program budgets to be approved by the program's fiscal agent prior to submitting to the

			Commission on VASAP for approval. Ensures stability of program operations.
24VAC35-80-90		Local ASAP certification	Minimal style changes and clarification that conditional certification of a program means that programs conditionally certified by the Commission on VASAP remain that way pending review at the next Commission on VASAP meeting. No impact.
24VAC35-80-100		Suspension or revocation of certification of a local ASAP	Adds conditions that may result in program certification suspension by the Executive Finance Committee and detailed processes for local programs when decertified by the Commission on VASAP. Ensures a smooth transition of client services and program funds during the decertification process.
24VAC35-80-110		Local ASAP case management processes and procedures	Minimal changes to align with the Virginia Code. No impact.
24VAC35-80-120		Local ASAP privacy and security procedures	Amended language to strengthen data privacy. Impact is stronger data privacy requirements.
24VAC35-80-130		Local ASAP personnel policies	Requires ASAP employees to receive a conflict-of-interest statement and clearly defines what a “family member” is regarding supervisory conflicts of interest. Strengthens integrity of program operations.
24VAC35-80-140		Local ASAP employee certification, revocation, or suspension	Adds requirements to ASAP director’s certification, makes clear that any employee whose employment ends with a local ASAP shall be required to re-certify if they apply with a local ASAP in the future, and sets a 30-day timeframe to request an administrative review. Strengthens program operations.

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 to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
24VAC35-80-55	Local government funding and fiscal agent obligations	§ 18.2-273.4 and § 18.2-273.6	A section of the regulations added to align with, and provide processes for, § 18.2-273.4 and § 18.2-273.6 of the Virginia Code. For impact, see

			the "Impact on State Agencies" table above.
24VAC35-80-125	Conflicts of interest	None	A section that provides multiple regulations regarding conflicts of interest pertaining to ASAP employees, directors, policy boards, and 3rd-party relationships. Strengthens integrity of program operations.
24VAC35-80-150	VASAP state-wide performance monitoring and data reporting	None	A regulation added to meet the requirements of new Virginia Code language pertaining to the state-wide VASAP system. Establishes procedures for the collection, reporting, and analysis of data necessary to conduct statewide performance monitoring of the VASAP system.
24VAC35-80-160	Approval and use of treatment service providers	None	Establishes requirements for the approval, listing, and monitoring of treatment providers on the Commission on VASAP's treatment service provider directory. Ensures stability of program operations and client services.