



Proposed Regulation Agency Background Document

Agency name	Virginia Aviation Board
Virginia Administrative Code (VAC) citation	24 VAC 5-20
Regulation title	Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia
Action title	Amend the minimum airport licensing requirements, the conditional licensing process, and update process information
Date this document prepared	December 21, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The purpose of this regulatory action is to amend the existing regulation to align more closely state airport licensing requirements with Federal Aviation Administration (FAA) standards and to provide a new process to address non-compliant conditions and the issuance of conditional airport licenses. These changes would benefit the operation and safety of the statewide air transportation system. The proposal also updates procedural information and citations, reduces redundancy, and provides consistency throughout the chapter.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Commercial service airports: Commercial service airports provide scheduled air carrier and/or commuter service.

FAA AC: This acronym is used in references to FAA Advisory Circulars, which provide standards, guidance, and recommendations for the topic of the circular. Compliance with advisory circulars is mandatory for airport sponsors receiving federal grant money.

General aviation airports: General aviation airports provide access to the national air transportation system and services for business and recreational users.

National Plan of Integrated Airport Systems: The National Plan of Integrated Airport Systems (NPIAS) identifies airports that are significant to national air transportation, the role they serve, and the amounts and types of airport development eligible for federal funding under the Airport Improvement Program. The NPIAS comprises all commercial service airports, all federally identified reliever airports, and selected general aviation airports.

Virginia Air Transportation System: The Virginia Air Transportation System is the network of public-use airports in Virginia that contribute to the statewide air transportation system, as identified and maintained through the Virginia Air Transportation System Plan (VATSP).

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Under §5.1-2.2 (5) of the *Code of Virginia*, the Virginia Aviation Board has the authority to promulgate such rules and regulations relating to airports, landing fields, and other aviation facilities as may be necessary to promote and develop safe aviation practices and operations.

In addition, under §5.1-7 of the *Code of Virginia*, the Virginia Aviation Board may, by regulation, adopt any other requirements for the licensure of airports or landing areas that are related to the safety of aircraft using airports or landing areas, which must be licensed in accordance with the section.

The general powers and duties of the Virginia Aviation Board are provided in §5.1-2.2 and §5.1-2.2:1. Other actions for which the Virginia Aviation Board has been authorized to participate are found in §5.1-2.5 through §5.1-2.23.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The purpose of the proposed action is to consider changes to the regulations regarding airport licensure, with a focus on 24 VAC 5-20-140 Minimum requirements for licensing and 24 VAC 5-20-275 Conditional licenses. The proposed change for 24 VAC 5-20-140 would align state minimum requirements more closely with FAA standards. The proposed change for 24 VAC 5-20-275 would modify the process for licensing airports not in compliance with state minimum licensing standards. The modification would offer better defined solutions to address non-compliant conditions and would lead to finite resolutions not currently realized, thereby improving the efficiency of the licensing process. The changes for minimum

licensing requirements and conditional licenses will benefit the operation and safety of the statewide air transportation system. Without this proposed regulatory action, some public-use airports would remain in a non-compliant and less safe condition. Non-compliant conditions at airports may jeopardize the continuance of a public-use license, which could lead to the closure of an airport.

The proposal also reflects a recent change to the *Code of Virginia*, updates procedural information and citations, reduces redundancy, and provides consistency throughout the chapter.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

24 VAC 5-20-140 Minimum requirements for licensing: The section is amended so that the state minimum standards more closely align with FAA standards.

24 VAC 5-20-145 Waiver of minimum requirements: The section is amended by updating procedural information and revised considerations for waivers.

24 VAC-5-20-275 Conditional license: The section is amended to provide procedural changes and solutions to address non-compliant conditions at airports. The modifications include the introduction of a "Day/Visual Flight Rule (VFR) Use Only License", a new conditional license that allows restricted operations at non-compliant airports.

24 VAC 5-20-330 Aviation facilities constructed in whole or in part with state funds: The section is amended for consistency with Virginia Aviation Board policies.

24 VAC 5-20-160 Public waters landing rights: The section is amended to incorporate information on seaplane bases.

24 VAC 5-20-10 Definitions: The section is amended to incorporate by reference terms defined in the *Code of Virginia*, which would reduce the number of terms in the section. In addition, terms to support proposed changes would be added, previously missing terms would be added, terms not used in the chapter would be removed, and terms used and defined in 24 VAC 5-20-400 Appendix A: Airport Safety Zoning Ordinance would be removed.

The following sections are amended by updating procedural information:

- 24 VAC 5-20-120 Licenses
- 24 VAC 5-20-150 Transfer of licenses
- 24 VAC 5-20-170 Private or personal airports
- 24 VAC 5-20-190 Determination of hazard
- 24 VAC 5-20-200 Obstruction criteria
- 24 VAC 5-20-210 Obstruction permit process criteria
- 24 VAC 5-20-280 Sanctions, notice and appeals

The following sections are amended to provide consistency within the chapter:

- 24 VAC 5-20-180 Fees
- 24 VAC 5-20-300 Hazards

The following sections are amended by updating citation references:

- 24 VAC 5-20-220 Model airport safety zoning ordinance
- 24 VAC 5-20-280 Sanctions, notice and appeals

Issues

Please identify the issues associated with the proposed regulatory action, 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

Section 5.1-7 of the *Code of Virginia* requires that any airport operated as a public-use facility must be licensed by the Virginia Department of Aviation (DOAV); presently there are 64 public-use airports in the Commonwealth that meet the statutory requirement. Of those airports, 26 airports do not meet current state minimum licensing requirements set forth in 24 VAC 5-20-140 and have been issued conditional licenses in accordance with §5.1-7 of the *Code of Virginia* and 24 VAC 5-20-275. Most of the existing non-compliant conditions are caused by natural growth. Many of the 26 airports have received multiple conditional licenses as the non-compliant conditions are not being addressed. As the conditional licenses expire, DOAV staff must continually repeat the agency's licensing process, which includes on-site inspections, resulting in an inefficient use of agency resources.

The majority of non-compliant conditions are caused by natural growth obstructions in safety areas. DOAV provides technical and funding assistance to airport sponsors for obstruction removal, whether the obstruction was identified through the licensing process or other inspection processes. The funding ratio for obstruction removal projects is 80 percent state participation and 20 percent local participation. This funding assistance would continue after the proposed regulations are in place.

In spite of this assistance and the temporary status of conditional licenses, non-compliant conditions continue to exist on or at airports. The Virginia Aviation Board and DOAV want to implement a more structured, efficient process of consistently addressing non-compliant conditions and their inherent safety concerns, so that airports can retain their public-use licenses instead of having their licenses revoked in accordance with §5.1-7 of the *Code of Virginia* and 24 VAC 5-20-280. Major elements of the proposed process would be the requirement for a written mitigation plan prepared by an airport and Virginia Aviation Board recommendations that would result in the definite resolution of the non-compliant condition. State funding for mitigation plans, obstruction removal, and other compliance related safety projects is available to public-use airport sponsors, whether public and private entities. Modification of the state minimum licensing requirements to align more closely with current FAA standards would be a preparatory action for the proposed process.

If a public-use airport license is revoked, the airport would be removed from the statewide air transportation system, and the airport sponsor would face the option of operating the facility as a private-use airport or closing the airport. The sponsor would no longer be eligible to receive any funding from DOAV. In addition, a sponsor of an airport facility no longer operating as a public-use airport would be required to reimburse the Commonwealth, on a pro-rata basis, for all outstanding financial obligations awarded through DOAV.

Many of the airports with existing non-compliant conditions would meet the proposed minimum requirements for airport licensing and would not be placed under conditional airport licenses. Over time, the number of airports no longer meeting the requirements would lessen. Of those airports that would still have non-compliant conditions under the proposed regulations, the scope of the work and associated costs to address the non-compliant conditions would be reduced as the requirements are less restrictive. In addition, the proposal offers a "Day/Visual Flight Rules (VFR) Use Only" license, a conditional license that allows restricted operations at an airport, thereby keeping the airport in the system and open to the public, but on a limited basis during daylight hours only.

Currently, license inspections are conducted every seven years, and the identification of non-compliant conditions during those inspections initiates the conditional license process. The proposed regulation for conditional licenses would allow the conditional license process to be initiated any time non-compliant conditions are identified. Earlier intervention will reduce the extent of the non-compliant conditions that must be addressed, especially those caused by natural growth, which in turn will reduce the costs to meet and maintain compliance with the minimum regulations.

Implementation of these regulatory proposals would increase safety, increase standardization, reduce costs for the state and airport sponsors, increase administrative efficiency, and increase Virginia Aviation Board participation in the conditional license process.

In addition, other sections in 24 VAC 5-20 contain procedural information that needs to be updated or text that needs to be changed for clarity and consistency within the chapter.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed requirements are not more restrictive than applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The localities particularly affected by this action are those that own public-use airports, either independently or through participation in an authority or commission.

Airport	Sponsor	Sponsor Membership
Accomack County	County of Accomack	Accomack, County of
Allen C. Perkinson Municipal	Town of Blackstone	Blackstone, Town of
Blue Ridge Regional	Blue Ridge Airport Authority	Henry, County of Patrick, County of Martinsville, City of
Brookneal-Campbell County	Brookneal-Campbell County Airport Authority	Campbell, County of Brookneal, Town of
Charlottesville-Albemarle	Charlottesville-Albemarle Airport Authority	Albemarle, County of Charlottesville, City of
Chase City Municipal	Town of Chase City	Chase City, Town of
Chesapeake Regional	Chesapeake Airport Authority	Chesapeake, City of
Chesterfield County	County of Chesterfield	Chesterfield, County of
Crewe Municipal	Town of Crewe	Crewe, Town of
Culpeper Regional	County of Culpeper	Culpeper, County of
Danville Regional	City of Danville	Danville, City of
Dinwiddie County	Dinwiddie Airport and Industrial Authority	Dinwiddie, County of
Emporia-Greenville Regional	Emporia-Greenville Airport Commission	Greenville, County of Emporia, City of
Farmville Regional	Town of Farmville	Farmville, Town of
Franklin Municipal	City of Franklin	Franklin, City of
Front Royal-Warren County	County of Warren	Warren, County of

Airport	Sponsor	Sponsor Membership
Gordonsville Municipal	Town of Gordonsville	Gordonsville, Town of
Grundy Municipal	Town of Grundy	Grundy, Town of
Hanover County Municipal	County of Hanover	Hanover, County of
Hummel Field	County of Middlesex	Middlesex, County of
Ingalls Field	Bath County Airport Authority	Bath, County of
Lake Country Regional	Lake Country Airport Commission	Boydton, Town of Clarksville, Town of Mecklenburg, County of
Lawrenceville-Brunswick Municipal	County of Brunswick	Brunswick, County of
Lee County	County of Lee	Lee, County of
Leesburg Executive	Town of Leesburg	Leesburg, Town of
Lonesome Pine	Cumberlands Airport Commission	Dickenson, County of Wise, County of Appalachia, Town of Big Stone Gap, Town of Coeburn, Town of Norton, City of Pound, Town of St. Paul, Town of Wise, Town of
Louisa County	Industrial Development Authority of Louisa County	Louisa, County of
Lunenburg County	County of Lunenburg	Lunenburg, County of
Luray Caverns	County of Page and Town of Luray	Page, County of Luray Town of
Lynchburg Regional	City of Lynchburg	Lynchburg, City of
Manassas Regional	City of Manassas	Manassas, City of
Mecklenburg-Brunswick Regional	Mecklenburg-Brunswick Regional Airport Commission	Brunswick, County of Mecklenburg, County of Brodnax, Town of LaCrosse, Town of South Hill, Town of
Middle Peninsula Regional	Middle Peninsula Regional Airport Authority	Gloucester, County of King and Queen, County of King William, County of West Point, Town of
Mountain Empire	Smyth-Wythe Airport Commission	Smyth, County of Wythe, County of Marion, Town of Wytheville, Town of
New Kent County	County of New Kent	New Kent, County of
New River Valley	New River Valley Airport Commission	Giles, County of Montgomery, County of Pulaski, County of Radford, City of Christiansburg, Town of Dublin, Town of Pulaski, Town of
Newport News-Williamsburg International	Peninsula Airport Commission	Hampton, City of Newport News, City of
Norfolk International	Norfolk Airport Authority	Norfolk, City of
Orange County	County of Orange	Orange, County of
Richmond International	Capital Region Airport Commission	Chesterfield, County of Hanover, County of Henrico, County of Richmond, City of
Roanoke Regional	Roanoke Regional Airport Commission	Roanoke, County of Roanoke, City of
Shenandoah Valley Regional	Shenandoah Valley Regional Airport Commission	Augusta, County of Rockingham, County of Harrisonburg, City of Staunton, City of Waynesboro, City of
Stafford Regional	Stafford Regional Airport Authority	Prince William, County of Stafford, County of Fredericksburg, City of
Suffolk Executive	City of Suffolk	Suffolk, City of
Tangier Island	Town of Tangier	Tangier, Town of

Airport	Sponsor	Sponsor Membership
Tappahannock-Essex County	Tappahannock-Essex County Airport Authority	Essex, County of Tappahannock, Town of
Tazewell County	Tazewell County Airport Authority	Tazewell, County of
Twin County	Twin County Airport Commission	Carroll, County of Grayson, County of Galax, Town of
Virginia Highlands	Virginia Highlands Airport Authority	Washington, County of
Virginia Tech-Montgomery Executive	Virginia Tech-Montgomery Regional Airport Authority	Montgomery, County of Blacksburg, Town of Christiansburg, Town of Virginia Tech
Wakefield Municipal	Town of Wakefield	Wakefield, Town of
Warrenton-Fauquier	County of Fauquier	Fauquier, County of
William M. Tuck	County of Halifax	Halifax, County of
Winchester Regional	Winchester Regional Airport Authority	Clarke, County of Frederick, County of Shenandoah, County of Warren, County of Winchester, City of

It should be noted that the Metropolitan Washington Airports Authority, which operates Washington Dulles International Airport and Ronald Reagan Washington National Airport, is designated an "Interstate Compact"; therefore, it has been determined by the Office of Attorney General that those airports are not required to be licensed.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Susan Simmers, Virginia Department of Aviation, 5702 Gulfstream Road, Richmond, VA 23250, phone 804-236-3632, extension 105, fax 804-236-3635, susan.simmers@doav.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>Airport sponsors have the responsibility to maintain their airport facilities to meet the existing minimum requirements for airport licensing. To assist sponsors in meeting these requirements, DOAV provides technical and financial assistance to the airport sponsors. The technical assistance is provided by staff as part of assigned duties. DOAV's operating budget is financed primarily from the Airport Special Fund, which is funded by aviation fuel taxes and airport and aircraft licensing fees in accordance with the <i>Code of Virginia</i> §5.1-52.</p> <p>Financial assistance is offered to airport sponsors through grants and allocations. For projects with state and local funding, the state's share of the eligible project costs is 80 percent. The grants and allocations are available through the Maintenance Program and the Airport Capital Program. Most obstruction removal projects are funded from the Maintenance Program. The Maintenance Program is an Airport Special Fund program; the Airport Capital Program is funded under the Commonwealth Transportation Fund, an apportionment of the Commonwealth Transportation Trust Fund.</p> <p>Some projects related to or including obstruction removal are eligible for federal funding. For projects with federal, local, and state funding, the state's share of the eligible project costs is 3 percent. This share is available from the Airport Capital Program. Federal funds, at a participation rate of 95 percent, are only available to public-use airports in the NPIAS. In Virginia, 48 airports are in the NPIAS.</p> <p>The costs for obstruction removal projects vary, based on factors including the volume of obstructions to be removed, availability of locality staff and equipment to handle the work, and control of the property on which the obstruction is located. The proposed minimum licensing requirements realign the safety areas involved, reducing the overall space that needs to be cleared of obstructions and the extent of work to be done, thereby decreasing the dollar amount DOAV would</p>
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	<p>need to offer through its existing funding programs.</p> <p>It should be noted that DOAV rarely participates in any obstruction removal projects at the commercial service airports as those airports must meet the more stringent standards for FAA's Part 139 certification.</p> <p>The processes involved in licensing airports and identifying obstructions to the licensing requirements are part of the on-going work performed by DOAV.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>As stated above, airport sponsors have the responsibility to maintain their airport facilities per the minimum requirements for airport licensing. Localities that are airport sponsors will still incur costs to maintain their facility to meet minimum standards, but as the boundaries of the safety areas involved are smaller under the proposed minimum standards, those costs would be reduced.</p> <p>An airport sponsor may apply to DOAV for grants and allocations to undertake projects to bring an airport into compliance or maintain compliance. For projects with state and local funding, the sponsor's share of the eligible project costs is 20 percent. For projects with federal, state, and local funding, the sponsor's share of the eligible project costs is 2 percent. Of the 56 publicly-owned, public-use general aviation airports in the statewide air transportation system, 47 are eligible for federal funding.</p> <p>It should be noted that 18 locality-owned, public-use general aviation airports do not meet the existing minimum requirements; 8 airports would meet the proposed minimum requirements without incurring costs and 7 airports would not meet the proposed minimum requirements.</p> <p>The fee for airport licensing would not change under the proposed amendments.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>Ten of the public-use airports in the state system are privately owned by corporations, limited liability corporations, and limited partnerships.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Ten of the public-use airports in the state system are privately owned by corporations, limited liability corporations, and limited partnerships. The sponsors of these airports have the same responsibility to meet the minimum requirements for airport licensing as the localities that own airports.</p> <p>Nine of those entities meet the given description of a small business.</p>

<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>As stated above, airport sponsors have the responsibility to maintain their airport facilities to meet the existing minimum requirements for airport licensing. The private entities that are airport sponsors will still incur costs to maintain their facility to meet minimum standards, but as the boundaries of the safety areas involved are smaller, the costs would not be as great as they would be under the existing minimum standards.</p> <p>Airport sponsors may apply to DOAV for grants and allocations to undertake projects to bring an airport into compliance or maintain compliance. For state funded projects, the sponsor's share of the eligible project costs is 20 percent. One of the privately-owned, public-use general airports is eligible for federally funded projects, for which the sponsor's share of the eligible project costs is 2 percent.</p> <p>It should be noted that 8 privately-owned, public-use airports do not meet the existing minimum requirements; these 8 airports would not meet the proposed minimum requirements, but the cost to bring them into compliance would be reduced.</p> <p>The fee for airport licensing would not change under the proposed amendments.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The proposed change for minimum airport licensing requirements will allow more efficient use of state and sponsor resources, both manpower and financial resources, in the airport licensing process. For the airport sponsors, the physical area they need to control for safety areas will be reduced, which will lead to a decrease in costs to meet and maintain the minimum requirements.</p> <p>The identification of situations that negatively impact the licensing requirements, usually the presence of obstructions, at any time instead of every seven years, allows solutions to be reached earlier. Earlier intervention will reduce the extent of non-compliant conditions that must be addressed, again reducing costs.</p> <p>The requirement for a mitigation plan in conjunction with a conditional license will result in better identification of the non-conforming conditions, which in turn will result in better project planning and project execution that lead to long-term solutions and more efficient use of state and local resources. This will reduce the piecemeal approach now used by some sponsors. The piecemeal approach incurs costs for repeated projects that do not solve the issues.</p> <p>The number of conditional licenses issued by</p>

	<p>DOAV, and the work related to inspections and evaluations for those licenses, should decrease as mitigation plans would lead to long-term solutions instead of the repeated issuance of conditional licenses.</p> <p>The proposed minimum requirements will help all public-use airport sponsors obtain and maintain their licenses, which is a requirement for a sponsor to be eligible to receive any aviation funding from the state.</p> <p>The <i>Virginia Airport System Economic Impact Study</i>, released in August 2011, reports that airports in the Virginia Airport System contribute \$28 billion in economic activity to the state economy. The proposed regulations will help maintain a strong statewide air transportation system that continues to contribute such a level of economic activity by keeping public-use airports open and resolving situations that decrease the safety and usability of those airports.</p>
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Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

One alternative to the proposed regulatory action is to take no action regarding the current requirements for licensing airports in the Commonwealth. If no action is taken regarding the minimum licensing requirements, many airports will continue to have non-compliant conditions; over time, some airports currently in compliance will no longer meet the minimum requirements as conditions on or at the airports, especially those caused by natural growth, will continue to worsen. The cycle of issuing conditional licenses will continue, leading to varying resolutions of non-compliant conditions, outstanding safety concerns, and inefficient use of state resources. Situations could reach the point where licenses would be revoked and airports would be removed from the statewide air transportation system due to safety concerns. This alternative is not acceptable as unsafe and non-compliant conditions will remain unresolved and airports may close as a result of the loss of a public-use license.

Another alternative is to incorporate fully FAA standards into the regulations instead of modifying state requirements to align more closely with FAA standards. This alternative is not feasible as 18 airports in the Virginia Airport System are not in the NPIAS; therefore, such requirements would not be all inclusive. In addition, fully incorporating FAA standards would be a much more costly option to implement as all the public-use airports would need to be brought to all FAA standards.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The regulations in 24VAC5-20 apply the same to all public-use airports, including privately-owned airports that are considered small businesses. Any establishment of less stringent regulations for those airports would defeat the intent of the licensing regulations and is not acceptable.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Catalogue Singapore	I am completely impressed by the efforts made to improve Virginia. Keep up the great work! I am sure results will follow soon.	No response needed.
Jim Shiller, Manager, Lawrenceville - Brunswick Municipal Airport	I was reading in the proposed regulations about runway over run. It states "over run shall be width of runway plus 100 feet", for us, that would be 150 feet. Will this be measured from the displaced threshold of 36 (end of runway 18) or from the end of the pavement? We have all that we need and then some for 30, but not for 18 if measured from end of pavement. If from displaced threshold, we will be in compliance.	Staff confirmed with Mr. Shiller that the measurement would begin at the end of the runway. Staff reviewed the definition of runway and concluded that it adequately distinguished the end of usable area from the end of pavement.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulation changes are expected to have no impacts on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre-emergency** regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10		This section addresses the terms and definitions used in the chapter.	<p>The section is amended to incorporate by reference words or terms defined in §5.1-1 of the <i>Code of Virginia</i>. This incorporation provides consistency between the regulatory instruments and reduces redundancy. The terms to be removed due to this incorporation are aircraft, airman, airport, airspace, board, civil aircraft, department, landing area, person, and public aircraft.</p> <p>Several terms are to be removed as they would no longer be used under the proposed revisions to the minimum requirements in Section 140. These terms are heliport approach surface, heliport primary surface, heliport transitional surface, imaginary surfaces, and transitional surface.</p> <p>Several terms are to be removed as they are not applicable to airport licensing and they are defined within the context of the airport safety zoning ordinance in Section 400. These terms are conical surface, horizontal surface, and primary surface.</p> <p>"Airport sponsor" is added to identify the entity responsible for the operation, maintenance, and capital development of an airport. This definition is based on the sponsor description provided in FAA Order 5100.38C and is consistent with the definition used in Virginia Aviation Board and DOAV funding instruments and policies.</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10 continued			<p>"Approach surface" is amended through the removal of dimensional information no longer effective or applicable with the proposed minimum requirements in Section 140.</p> <p>"Day/VFR Use Only License" is added to identify a new conditional license option initiated by DOAV and included in the proposed minimum requirements.</p> <p>"Helipad" is amended to match FAA AC 150/5300-18B.</p> <p>"Intrastate air transportation" is to be removed as it was not found in this chapter.</p> <p>"Obstacle" is amended to provide a better description and more closely align the definition with its use in the minimum requirements in Section 140.</p> <p>"Obstruction" is amended to specifically include obstructions resulting from natural growth. The inclusion of these obstructions highlights the importance of identifying and mitigating them.</p> <p>"Obstruction clearance plane" is amended through the removal of dimensional information as the specifications differ based on characteristics of an airport.</p> <p>"Private-use landing area license" is added to identify a new airport license type used in Section 170.</p> <p>"Runway object free area" is added to support revisions to the minimum requirements in Section 140. The definition is based on FAA AC 150/5300-13.</p> <p>"Runway safety area" is amended for consistency with the proposed minimum requirements in Section 140.</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10 continued			<p>"Safety overrun" replaces the term overrun for consistency with FAA terminology. The definition was revised to provide a better description and for consistency within the chapter.</p> <p>"Seaplane base" is added to support its use in the proposed revision of the water landing areas in Section 160. The definition is based on FAA AC 150/5395-1.</p> <p>"Structure" is amended to provide a better description and for consistency with the definition for obstruction.</p>
120		This section addresses which facilities need airport licenses and how to obtain a license.	<p>This section is amended to present the information in the order of the need for license, and then how to obtain, amend, and renew a license. The renewal schedule is changed to allow the department flexibility to meet new needs should legislation, standards, policy, processes, and procedures change.</p> <p>The revision also provides process and procedure updates. Text changes are made for consistency within the chapter and to reduce redundancy.</p>
140		This section addresses the minimum requirements for airport licensing.	<p>This section is amended to align state airport licensing requirements more closely with FAA standards. Terms are changed to those that better define the purpose of the requirements, and some dimensions are changed. Several requirements, such as runway safety area length and approach surface dimensions based on FAA AC 150/5300, are added for clarification and consistency. The information is presented in a new order for better readability and reference.</p> <p>The requirement for an unobstructed transition surface is removed as the utilization of the runway object free area more closely aligns the state requirements with FAA standards.</p> <p>The requirement related to ingress and egress from both ends of a runway is removed as it would be in conflict with the revision for effective runway length.</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
140 continued			<p>Minimum requirements for the conditional “Day/VFR Use Only License” are added to provide information for the revision of conditional licenses in Section 275.</p> <p>The requirement related to runways for short-takeoff-and-landing aircraft is removed as DOAV does not support bringing into the statewide air transportation system any airport that cannot meet the minimum licensing requirements.</p> <p>The dimension reference for heliports is changed to reflect the variable sizing of heliports per FAA AC150/5390-2B.</p> <p>A requirement is added to provide the minimum requirements for seaplane bases for consistency within the chapter and to support revisions to Section 160.</p> <p>Text changes are made for clarity, consistency within the chapter, and redundancy reduction.</p>
145		This section addresses the process for waivers to the minimum requirements for airport licensing.	<p>The section is amended to clarify the application process and the Virginia Aviation Board's role in the process. The considerations for the granting of a waiver have been modified for clarity.</p> <p>A portion of the text dealing with exemptions is amended to match legislation passed by the 2011 General Assembly. The remaining portion is removed as it would not apply with the implementation of the proposed minimum requirements.</p>
150		This section addresses the transfer of airport licenses	The section is amended to provide information and updates for the transfer process.
160		This section addresses the need for licensing seaplane bases.	The section is amended to provide information consistent with that for airports and heliports.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
170		This section addresses the need for licensing or registering private landing areas.	<p>The section is amended to clarify the type of facilities that must be registered and to identify facilities that would receive a Private-use Landing Area license.</p> <p>The section is amended to update information on the licensing and registration process for private landing areas.</p> <p>The section is amended to include information on hospital aviation facilities which had previously been in Section 330. This information is moved as it is consistent with this section. The funding of such facilities is removed as funding is not available for facilities outside of the statewide air transportation system.</p>
180		This section addresses airport licensing fees.	The section is amended for consistency in term references.
190		This section addresses hazard determination.	The section is amended to update information on the process. The section is also amended for consistency in term references.
200		This section addresses obstruction criteria.	The section is amended for consistency with updates in the previous section.
210		This section addresses the obstruction permit process.	The section is amended to update information on the process and the <i>Code of Virginia</i> citation.
220		This section addresses the model airport safety zoning ordinance.	The section is amended to update <i>Code of Virginia</i> citations.
275		This section addresses conditional airport licenses.	<p>The section is amended through a new process for conditional licenses which provides for distinct resolutions to non-compliant conditions where minimum airport licensing requirements are not being met. The process details actions to be taken by an airport sponsor and licensing recommendations available to the Virginia Aviation Board. The new process is proposed to promote safety at airports and to insure consistency in the handling of these situations.</p> <p>The section is amended by allowing the process to be initiated any time a non-compliant condition is identified, instead of only during a license inspection conducted once every seven years.</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
280		This section addresses sanctions, notices, and appeals.	The section is amended for consistency in term reference.
300		This section addresses airport hazards.	The section is amended for consistency in term reference.
330		This section addresses aviation facilities constructed with state funds.	<p>This section is amended to reflect a recent change in Virginia Aviation Board policy and for consistency in term reference.</p> <p>The portion of the section related to hospitals is moved to Section 170 as it is consistent with the information provided in that section.</p>