



Final Regulation Agency Background Document

Agency name	Board for Branch Pilots
Virginia Administrative Code (VAC) citation	18VAC45-20
Regulation title	Board for Branch Pilots Regulations
Action title	General Review
Date this document prepared	August 22, 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

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The Board intends to change its regulations to further define requirements and procedures for chemical testing, the physical examination requirements for initial licensing and license renewal, and additional criteria for the Medical Review Officer. "Marijuana" is added to definitions.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

Final regulations were adopted by the Board for Branch Pilots at its meeting on July 29, 2011. The adopted regulations retain the same title as the existing regulations, "Board for Branch Pilots Regulations".

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section §54.1-902 of the *Code of Virginia* authorizes the Board to promulgate regulations for a regulatory system. While the Board is mandated to establish regulations, the content of the regulations is left to the discretion of the Board.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

At its meeting in February 2009, the Board for Branch Pilots authorized staff to file a Notice of Intended Regulatory Action (NOIRA) for a general review to the Board's regulations including, but not limited to, review of the chemical testing regulations. At its meeting in October 2009, the Board for Branch Pilots approved proposed language. At its meeting in December 2009, the Board for Branch Pilots approved a Chemical Testing form. Final regulations were approved by the Board on July 29, 2011.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The Board is proposing changes to its existing regulations pertaining to the physical examination requirements for initial licensing and license renewal. Additionally, the Board has proposed changes to modify the existing reporting requirements for denial of licensure, denial of renewal, and discipline. Finally, the proposed changes establish additional criteria for the Medical Review Officer.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

The proposed changes further ensure regulants are competent for duty and thereby protect the health, safety, and welfare of the public.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

No changes have been made since the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No comments were received from the public during the public comment period.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

18VAC 45-20-05			Amend the definitions of chemical test and illegal drugs to include the phrase “or marijuana.” The phrase is included to further clarify the Schedule of controlled substances.
18VAC45- 20-10.B.5			Amended the initial licensing for a branch pilot to include chemical testing in addition their physical examination.
18VAC 45-20- 20.B.1			Language added regarding limited branch pilot license renewal requirements to include chemical testing if not randomly performed in previous 24 months.
18VAC45- 20-20.C.2			Language added regarding full branch pilot license renewal requirements to include chemical testing if not randomly performed in previous 24 months
18VAC45- 20-40.1			Language added to include convictions resulting from an arrest of any alcohol or drug-related offense.
18VAC45- 20-40.2			Language change regarding timeframe for reporting offenses; language added to report alcohol or drug-related offenses.
18VAC45- 20-40.3			Language change regarding timeframe for reporting any action by the National Transportation Safety Board or the United States Coast Guard.

18VAC45-20-40.9			Language change regarding timeframe for reporting physical or mental condition which may affect the ability to perform duties of a pilot.
18VAC45-20-50.C.5			Language added to require the Medical Review Officer to report any delay or refusal by the licensee in reporting to test or being tested.

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 were developed with the consideration that the industry consists of small businesses. The Board considers that the promulgated regulations accomplish the applicable law while minimizing the adverse impact on small businesses.

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 changes are not anticipated to have any significant impact on Virginia's families.