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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Motor Vehicle Dealer Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24VAC 22-40
<b>VAC Chapter title(s)</b>	Independent Motor Vehicle Dealer-Operator Recertification Regulations
<b>Action title</b>	Remove Chapter 40 Independent Dealer-Operator Recertification Regulation
<b>Date this document prepared</b>	10/13/2022 (rev. 3/13/23)

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 2022 General Assembly passed HB 316, which codifies existing Motor Vehicle Dealer Board Dealer-Operator recertification regulations (24VAC22-10 through 24VAC22-70) to Virginia Code §§ 46.2-1583 - 46.2-1589. The regulation to remove is posted in the Virginia Register Volume 26, Issue 24. The MVDB will remove regulation 24VAC22-40-10 through 70.

### 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.

Not Applicable

**Statement of Final Agency Action**

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 taking the action; and 3) the title of the regulation.

The MVDB implemented the new law taking effect July 1, 2022. §§ 46.2-1583 through 46.2-1589 codifies into law the Independent Dealer Operator Recertification regulation 24VAC22-10 through 70.

On March 13, 2023, the Motor Vehicle Dealer Board unanimously voted to adopt this regulatory change.

**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."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

This action is appropriate for fast-track due to the regulation is being repealed in whole because the regulation was codified into law.

The 2022 General Assembly passed HB 316, which codifies existing Motor Vehicle Dealer Board Dealer-Operator recertification regulations 24VAC22-10 through 24VAC22-70) to Virginia Code §§ 46.2-1583 - 46.2-1589. This action repeals 24VAC22-10 through 70.

**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.

24VAC22. Motor Vehicle Dealer Board  
VAC Agency No. 22  
§ 46.2-1511  
§§ 46.2-1583 through 46.2-1589  
2.2-4006 (A).(40).(a)  
2.2-4007.01

## 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.*

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Since the recertification requirements are now codified in Chapter 15 of the Virginia Code, the primary purpose is to ensure there are no conflicts between the Virginia Code and the regulation. The welfare of citizens is positively impacted due to increased frequency educational training for dealer-operators within the motor vehicle dealer community. The goal of this regulatory removal is to increase accurate information and reduce confusion.

## 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.*

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§§ 46.2-1586, 46.2-1589 changes the process established by regulation by (i) changing recertification from every 36 months to every 24 months; (ii) changing the training requirement from a six-hour course to a live four-hour instructor-led course and a requirement to pass an examination; (iii) increasing the permissible course fee from \$250 to \$300; and (iv) increasing the recertification application fee from \$25 to \$50.

## 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.*

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1. The advantage to the public of repeal is less confusion for the public by removing conflicts between the Virginia Code and the regulations. This repeal also makes information more readily accessible and makes the recertification requirements more accurate.
2. The dealer community's educational requirements (training) are more frequent.
3. The proceeds from the training will allow the MVDB to provide oversight and support the administration of the Independent dealer-operator recertification program.
4. There are no disadvantages.

**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 federal requirements regarding continuing education for Independent Motor Vehicle dealers.

**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

This removal of the regulation does not materially impact other State Agencies.

Localities Particularly Affected

This removal of the regulation does not affect Localities.

Other Entities Particularly Affected

None

**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**

<p><i>For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including:</i></p> <ul style="list-style-type: none"> <li>a) fund source / fund detail;</li> <li>b) delineation of one-time versus on-going expenditures; and</li> <li>c) whether any costs or revenue loss can be absorbed within existing resources</li> </ul>	<p>There is no impact to remove this regulation. Any costs associated with removal of this regulation can be absorbed within existing resources.</p>
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<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	DMV will not be affected by the removal of this regulation.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Remove overlap of having a law and a regulation that state the same thing.

**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.	Please see ORM Economic Impact Reported on Table 1a
Benefits the regulatory change is designed to produce.	

**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.	Please see ORM Economic Impact Reported on Table 1a
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.	Please see ORM Economic Impact Reported on Table 1a
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.	Please see ORM Economic Impact Reported on Table 1a
Benefits the regulatory change is designed to produce.	Please see ORM Economic Impact Reported on Table 1a

**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.*

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Please see ORM Economic Impact Table 1a

*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.*

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Please see ORM Economic Impact Table 1a

*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.*

### **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.*

*Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

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

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to William Childress, Executive Director, Motor Vehicle Dealer Board, 2201 W. Broad Street, Suite 104, Richmond, Virginia. 23220; [William.Childress@MVDB.Virginia.gov](mailto:William.Childress@MVDB.Virginia.gov); or 804-367-1053. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

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

## 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 existing VAC Chapter(s) and the proposed regulation. If 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
24VAC22-40-10	§ 46.2-1583	None	None
24VAC22-40-20	§ 46.2-1584	None	None
24VAC22-40-30	§ 46.2-1585	Recertification schedule is every three (3) years	Recertification schedule changes to every two (2) years
24VAC22-40-40	§ 46.2-1586	Six (6) hours online and at-your-pace course. Or an in-person course. No pass/fail. May take a Recertification exam at the DMV.	The new law requires four (4) hours live, instructor led, digital (Zoom); or in-person course; and pass an examination. No exam offered at the DMV.
24VAC22-40-50	§ 46.2-1587	None	None
24VAC22-40-60	§ 46.2-1588	None	None
24VAC22-40-70	§ 46.2-1589	Recertification application fee is \$25.00 DMV exam fee is \$50.00 Course providers may charge no more than \$250.00 for the recertification course.	Recertification application fee is \$50.00 There is no DMV exam option Course providers may charge no more than \$300.00 for the recertification course.