

PART I.

INITIAL LICENSE.

18 VAC 45-20-05 Definitions

As used in this chapter, unless the context requires a different meaning:

“Attempting to perform” means any time when a licensee has accepted an assignment to perform any of the duties of his office or job.

“Chemical test” as used in this chapter [, except when applied to testing for the presence of alcohol,] means any scientifically recognized test [~~that analyzes and analyses of~~] an individual’s breath, blood, urine, saliva, bodily fluids, hair or tissues for evidence of [~~alcohol or~~] controlled substances listed in Schedules I – V, Title 54.1, Chapter 34, Code of Virginia, “The Drug Control Act.” [The words “chemical test” as used in this chapter in connection with the testing for the presence of alcohol refers to a scientifically recognized test involving saliva or breath.]

The term “Illegal drugs” as used in this chapter includes any “controlled substance” as that term is defined in The Drug Control Act at § 54.1-3401, Code of Virginia, listed in Schedule I, § 54.1-3446 of the Code, or those controlled substances illegally acquired listed from Schedules II – V, §§ 54.1-3448, 54.1-3450, 54.1-3452 and 54.1-3454, Code of Virginia, as

amended, respectively. It is the intent of these regulations that in the event the contents of Schedules I – V of The Drug Control Act are changed, that these regulations incorporate such changes at the time those controlled substances are made a part of The Drug Control Act in Virginia.

“Medical Review Officer” (MRO) means a Virginia licensed physician(s) with a current valid certification from the American College of Occupational and Environmental Medicine or the American Association of Medical Review Officers whose duties, authorities and responsibilities are delineated by these organizations.

“On-duty” means the period of time the licensee is available to receive orders for an assignment.

18 VAC 45-20-10 Initial licensing.

A. Any person wishing to obtain a license as a Limited Branch Pilot shall meet the following qualifications:

1. Satisfactorily complete a two year apprenticeship in a program approved by the board;
2. Satisfactorily complete a comprehensive examination which shall be approved by the board and administered by the examining committee of the board. The

examination shall be in two parts:

- a. Written; and
 - b. Practical oral examination.
3. Comply with the board's regulations and Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia;
 4. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. This examination ~~must~~ shall include ~~a~~ the ~~scientifically recognized chemical~~ test tests ~~which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use~~ [referred to in 18 VAC 45-20-05]; and
 5. Notify the board of any chronic or acute physical or mental condition.
- ~~5.~~ 6. Pay a licensing fee of \$275.00. Each check or money order shall be made payable to the Treasurer of Virginia. All fees ~~are~~ shall be nonrefundable.
- B. Any limited branch pilot wishing to obtain a full branch pilot license shall meet the following qualifications:

1. Satisfactorily complete a five year apprenticeship in a program approved by the board;
2. Hold a limited branch pilot license in good standing;
3. Pass a practical examination approved by the board and administered by the board's Examining Committee;
4. Possess a valid unlimited Federal Inland Masters License with First Class Pilot endorsement issued by the United States Coast Guard for the same waters as his branch. Any such federal license acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate. A copy of this license shall be filed with the clerk of the board immediately;
5. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~
6. Qualify in accordance with § 54.1-905 of the Code of Virginia; and
7. Pay a licensing fee of \$275.00. Each check or money order is to be made payable to the Treasurer of Virginia. All fees [~~are~~ shall be] nonrefundable.

PART II.

LICENSE RENEWAL.

18 VAC 45-20-20 License renewal.

A. Each pilot seeking renewal of his license shall complete a renewal application, comply with the provisions of this section, and appear before the board or its License Renewal Committee which shall determine if he possesses the qualifications to be renewed.

B. Any limited branch pilot seeking to renew his license shall meet the following standards:

1. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~
2. Furnish to the board evidence that he has transited the waters embraced by his license during the preceding 12 months;
3. After three years of licensure as a limited branch pilot, possess a valid First Class Pilot License issued by the United States Coast Guard for the same waters as his limited branch. Any such federal license acquired after January 1994 shall include

an Automated Radar Plotting Aids (ARPA) radar certificate; and

4. Pay a license renewal fee of \$375.00. Each check or money order is to be made payable to the Treasurer of Virginia. All fees [~~are~~ shall be] non-refundable.

C. Any full branch pilot seeking to renew his license shall meet the following standards:

1. Possess a valid unlimited Federal Inland Masters License with First Class Pilot endorsement issued by the United States Coast Guard for the same waters as his branch; any such federal license renewed or acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate;
2. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~
3. Furnish to the board evidence that he has transited the waters embraced by his license during the preceding 12 months, and that he has piloted 12 or more ships during that time, at least six trips as a pilot within the first six months of the calendar year and six trips as a pilot within the last six months of the calendar year;
4. Upon the showing of good cause, the board may waive the requirements of

subdivision 3 of this subsection when in its judgment the pilot is otherwise qualified;

5. Qualify in accordance with § 54.1-906 of the Code of Virginia; and
6. Pay a license renewal fee of \$375.00. Each check or money order is to be made payable to the Treasurer of Virginia. All fees [~~are~~ shall be] nonrefundable.

PART III.

CHANGE OF LICENSE.

18 VAC 45-20-30 Change of license.

In order to extend a license, an applicant [~~must~~ shall] satisfactorily complete twelve or more round trips with a currently licensed pilot of the branch for which the applicant seeks licensure, receive a First Class Pilot License issued by the United States Coast Guard for that additional area and pass a practical examination approved by the board and administered by the board's Examination Committee.

PART IV.

STANDARDS OF CONDUCT.

18 VAC 45-20-40 Grounds for denial of licensure, denial of renewal, or discipline.

The board shall have the authority to deny initial licensure, deny an extension of license, or deny renewal as well as to discipline existing licensees, whether limited or not, for the following reasons:

1. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude or any alcohol or drug-related offense there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.
2. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude.

3. Failing to report to the board in writing any reports of the National Transportation Safety Board involving the licensee, or the results of any disciplinary action taken by the United States Coast Guard taken against the licensee within 30 days of that action.
4. Refusing or in any other way failing to carry out an order from the pilot officers for reasons other than the public's health, safety, and welfare.
5. Negligence or misconduct in the performance of duties.
6. Violating or cooperating with others in violating any provision of Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia, as amended, or any regulation of the board.
7. Failing to, as soon as possible under the circumstances, report to the pilot officers his finishing time and other required information relating to the particulars of the ship.
8. Failing to file immediately with the president or vice president of the board, with a copy to the board administrator, a complete written account of any violation of the statutes of Virginia or of the United States relating to pilotage, or failing to report in writing to the president or vice president of the board, with a copy to the board administrator, an account of all collisions, groundings, or other maritime mishaps of any description that may occur during the discharge of the pilot's duties. This report

shall be received no later than seven days after such an incident.

9. Failing to report to the board any physical, ~~emotional, or psychological~~ or mental impairments condition which may affect his ability to perform the duties of a pilot. Such reports [~~must~~ shall] be provided within 30 days of the onset of the condition.

10. Refusal to comply with the board's requirement for a ~~scientifically recognized chemical~~ test ~~which analyzes an individual's breath, blood, urine, saliva, bodily fluids or tissues for evidence of dangerous drug or alcohol use.~~ Such test is required immediately and no later than 12 hours after involvement in a collision, grounding or other incident resulting in personal injury, death, environmental hazard or property damage in excess of \$100,000. Refusal to comply with this requirement ~~shall~~ may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia.

11. Refusal to comply with ~~the board's~~ any board requirement for [a] ~~scientifically recognized chemical~~ [test tests] ~~which analyzes an individual's breath, blood, urine, saliva, bodily fluids or tissues for evidence of dangerous drug or alcohol use~~ in any instance in which the board has ~~reasonable~~ cause to believe a test is necessary to protect the public health, safety, ~~or~~ [and or] welfare. Refusal to comply with this requirement ~~shall~~ may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia.

12. Failure to send ~~the~~ proof of any test required by regulation 18 VAC 45-20-40.10 or 18 VAC 45-20-40.11 to the president or vice president of the board, with a copy to the board administrator, within 48 hours of the administration of the test.

13. [~~An indication of impairment in the results of any on a test furnished under regulation 18 VAC 45-20-40.10 or 18 VAC 45-20-40.11 administered pursuant to this chapter.~~ A positive finding as a result of, or on, any substance abuse or chemical test as a result of which the board believes there is a threat to the public health, safety and welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902, Code of Virginia.]

[~~14.~~ Evidence of impaired performance in any instance in which the board believes there is a threat to the public health, safety and welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902, Code of Virginia.]

[~~14. 15.~~ Performing or attempting to perform any of the duties of his office or job while under the influence of illegal drugs.

14. [~~15. 16.~~ Performing or attempting to perform any of the duties of his office or job while under the influence of alcohol, or any medication (controlled substance or otherwise) to the extent that he is was unfit for the performance of the duties of his office or job.

[16. 17.] Failing to comply with any of the provisions of section 18 VAC 45-20-50 of this chapter.

18 VAC 45-20-50 Random Chemical Testing

All Virginia licensed Branch Pilots shall be subject to the random chemical testing of this chapter. Random chemical testing shall be conducted at an annual selection rate of not less than thirty percent and not more than one-hundred percent of total licensees. Licensees ~~are~~ shall be] responsible for all costs associated with random chemical testing. The chemical test shall be a comprehensive drug screen acceptable to the board that includes testing for controlled substances in Schedules I – V, Title 54.1, Chapter 34, Code of Virginia.

Only licensees on-duty may be selected for random testing. A licensee selected for random chemical testing shall report for testing within two hours of notification. Failure to take a random chemical test is considered refusal to take the test.

A. Duties of Licensee

1. All licensees of this board shall enroll and participate in a random chemical testing program that meets the criteria of this chapter.

2. An on-duty licensee selected for random chemical testing shall report for testing within two hours of notification that he has been selected.

3. Licensees who receive a prescription for any medication from any health care provider shall have the following duties:
 - a. give the provider a copy of the licensees' job description as a Virginia pilot, and;

 - b. give the provider a complete list of medications used within the thirty days preceding the current visit, and;

 - c. the licensee shall obtain a written statement from the health care provider stating if the new prescription is for a controlled substance (Schedules II – V of The Drug Control Act), and shall obtain a written statement from the health care provider as to the licensees' fitness to safely perform the duties found in the job description, and;

 - d. if prescribed any medication containing a Schedule II – V controlled substance, that is to be used within twelve hours of being on duty, the licensee shall make certain the MRO received by hand delivery or telefax each prescription written by any health care provider at the time such

prescription is written along with a complete list of medications used by the licensee within the preceding thirty days.

B. Criteria for Medical Review Officer

1. Be completely familiar with all duties of a Virginia pilot.
2. Receive, evaluate and maintain records of all medications given him by or on behalf of each Virginia pilot.
3. Receive, evaluate and maintain a record of each random chemical test taken by a Virginia pilot.
4. Any time the MRO finds the presence of a drug or alcohol that may impair the safe discharge of any duty of a Virginia pilot such that he is unfit to perform those duties, his written findings shall be reported to the licensee and President or Vice-President of the board and to the board's administrator.
5. To the extent consistent with State and federal law, protect the confidentiality of all licensee records.
6. The MRO shall judge fitness to safely perform duties in the context of the licensee's prescription medication's and the licensee's available medical history.

Any time the MRO finds evidence that the Virginia pilot may be impaired in the safe discharge of any of his duties such that he may be unfit to perform those duties, his written finding shall be reported to the licensee and President or Vice-President of the board and to the board's administrator.

I certify that this regulation is full, true and correctly dated.

Mark N. Courtney, Assistant Director
Department of Professional and Occupational Regulation/
Board for Branch Pilots

Date