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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Department of Forensic Science
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	6VAC40-15-10 through -30
<b>VAC Chapter title(s)</b>	Parking Regulations
<b>Action title</b>	Fast-Track Parking Regulations
<b>Date this document prepared</b>	April 28, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.*

This is a new fast-track regulatory action approved by the Forensic Science Board to permit the Department of Forensic Science to regulate and enforce parking at its facilities, particularly at its Eastern Laboratory.

### 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.*

"Department" or "DFS" means the Department of Forensic Science.

"OCME" means the Office of the Chief Medical Examiner.

### 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.*

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At its meeting on April 21, 2022, the Forensic Science Board was apprised of the Department’s ongoing parking concerns, particularly at the Eastern Laboratory. Department Counsel discussed with the Board other options that the Department had considered in addressing the issues at its Eastern Laboratory short of this fast-track regulatory action and why the Department had determined that those options were not feasible. Having reviewed those options and the proposed language of the fast-track regulation, the Forensic Science Board approved the Parking Regulations unanimously. These regulations will be added at 6VAC40-15 and will be entitled “Parking Regulations.”

### 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 Executive Order 14 (as amended, July 16, 2018), “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.”*

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

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There is no mandate for this regulatory change. Other state agencies regulate parking at their facilities via statutory authority or regulatory authority. It is anticipated that this rulemaking will be noncontroversial because it is limited to the Department’s four facilities around the Commonwealth. The proposed regulatory action simply provides the Department with the ability to manage its properties so that its employees, the employees of the Department’s tenants at those facilities, and members of the public with business at those facilities have parking accommodations.

### 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.*

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The Forensic Science Board is authorized under Virginia Code § 9.1-1110(A)(1) to adopt regulations for the administration of the chapter.

### 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’s intended to solve.*

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As indicated, other state agencies have the authority to regulate parking at their facilities and to tow non-compliant vehicles from their parking facilities. The Department has not previously had the need to do so. However, with the significant growth in the area around the Eastern Laboratory within the City of Norfolk, residents have started using the Department’s Eastern Laboratory parking lot for regular overnight and extended parking rather than paying for parking through a commercial garage.

In addition to the Department, the Eastern Laboratory building houses the Tidewater Office of the Chief Medical Examiner (OCME), the Norfolk Public Health Department, and other tenants. The customers of those offices and tenants, particularly law enforcement, family members of the deceased, health clinic patients, etc., should have access to adequate parking around the building for the business that they are conducting within the building.

There is currently no mechanism for the Department to stop those individuals from parking in the lot that do not have business there. The City of Norfolk parking and towing ordinances only pertain to City property and private property. It is not feasible to gate the parking lot due to the large numbers of customers and/or clients that should have access to parking. The regulations as drafted would give the Department the ability to post the property and enforce the regulations through towing, as is similarly done by other state agencies and localities.

**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 new chapter has three sections. The first section (6VAC40-15-10) provides “Definitions” for the chapter. The second section (6VAC40-15-20) sets out the general prohibitions and the required posting of the property with signs to alert those that are parking either improperly or with no business on the premises that their vehicle may be towed. The third section (6VAC40-15-30) authorizes the Department’s Parking Manager to enforce the regulations and provides a liability disclaimer for the Department and the Commonwealth of Virginia.

**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 Department’s facilities need to have available parking for its customers and the customers of its tenants (all are also state agencies). If a facility is located in an urban area, as is the case with the Eastern Laboratory, there must be a mechanism to regulate the use of the parking lot so that parking can be provided for the employees of the Department, the customers of the Department and its tenants, and other members of the public that may have business in the facility. If the Department does not take steps to regulate parking at its facilities, customers may have extended wait periods to locate an available parking space, may park illegally on the streets of the City of Norfolk, or may choose to abandon their business at the facility because they are unable to locate parking. The Department may have to make additional expenditures to secure additional parking space in the area when the current parking would be sufficient were it not for those utilizing the parking inappropriately. There are no disadvantages to the public or the Commonwealth.

**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**

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "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

Virginia Department of Health (Office of the Chief Medical Examiner and, for the Norfolk facility, Norfolk Public Health) and Virginia Tech (tenants of the Virginia Department of Health for the Norfolk facility only)

Localities Particularly Affected

None

Other Entities Particularly Affected

None

**Economic Impact**

*Pursuant to § 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 change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</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 are no projected costs, fees or revenues resulting for this regulatory change, aside from the purchase of signs for each of the Department's facilities which is minimal. The Parking Manager duties would be absorbed by current Department staff. A towing agreement would be reached with a local towing company at no cost to the Department. The contract would</p>
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	<p>be similar to the agreements that towing companies make with private property owners to tow vehicles that are parking without permission on those parking lots. The cost of the towing is assessed at a standard rate set by locality ordinance and is charged to the vehicle owner.</p> <p>This regulatory change could save the agency the costs of gating the lots and providing parking passes to each visitor for each facility, which would be labor intensive for Department staff and not feasible for the Eastern Laboratory with the multiple tenants in the building.</p>
<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.	None identified as DFS is the “landlord” for all facilities.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The regulatory change is designed to ensure adequate parking at all of the Department’s facilities, to the benefit of its employees, the employees of its tenants, customers of both the Department and its tenants, and members of the public with business at the facilities.

**Impact on Localities**

Projected costs, savings, fees or revenues resulting from the regulatory change.	None.
Benefits the regulatory change is designed to produce.	The localities where the Department’s facilities are located may benefit from the Department’s ability to regulate towing at its facilities to provide adequate parking so that members of the public with business in those facilities are not parking illegally on city or county streets to be able to visit the building.

**Impact on Other Entities**

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.	A towing agreement will be established for each facility which may provide those companies with some income. It is not anticipated that this will be a significant impact, as it is hoped that the posting of the properties will result in self-regulation by motor vehicle owners.
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.	Four towing companies. The Department will attempt to establish agreements with small business owners for that purpose.
All projected costs for affected individuals, businesses, or other entities resulting from the	There are no required costs or record keeping as a result of the regulatory change. There may be

<p>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.</p>	<p>record keeping requirements for the towing companies resulting from statutory or local ordinance requirements pertaining to that business.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulatory change is designed to ensure adequate parking at all of the Department's facilities, to the benefit of its employees, the employees of its tenants, customers of both the Department and its tenants, and members of the public with business at the facilities.</p>

**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.*

The Department considered gating the parking lots at all of its facilities, or at least the Eastern Laboratory facility where the issue is significant. With the access to the building required by law enforcement, and customers for the OCME and other tenants, particularly for Norfolk Public Health clinic patients, it is not feasible to gate the lots and provide passes for each individual vehicle. The City of Norfolk parking and towing ordinances only pertain to city property and private property. This regulatory change is not intrusive or costly for small businesses.

**Regulatory Flexibility Analysis**

*Pursuant to § 2.2-4007.1B 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.*

There are no less stringent compliance requirements available to the Department that would provide it with the ability to secure parking for its facilities for only employees, tenants and customers. There are no reporting requirements nor does this regulatory change adversely impact small businesses.

**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.

As required by § 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.

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 Forensic Science 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 and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in 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 Amy C. Jenkins, Department Counsel, Department of Forensic Science, 700 N. 5<sup>th</sup> Street, Richmond, Virginia 23219, (804) 786-2281 (phone), (804) 786-6857 (facsimile), or [amy.jenkins@dfs.virginia.gov](mailto:amy.jenkins@dfs.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

### 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

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-	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

<b>section number</b>			
6VAC40-15-10	Definitions for the chapter	None	Defines terms that are utilized in the new chapter.
6VAC40-15-20	General Prohibitions	None	This section requires all employees to park where designated, requires the posting of the points of egress and ingress to inform the public that vehicles may be towed if in violation of the chapter, limits parking to those with business on the premises, prohibits overnight parking, prohibits towing in a fire lane or roadway, prohibits unauthorized parking in a handicapped area, prohibits parking in a reserved space, and prohibits parking in a manner that blocks or impedes another vehicle.
6VAC40-15-30	Enforcement	None	This section gives the Parking Manager to enforce the regulations. Operators of motor vehicles in violation of the regulations are notified that their motor vehicle may be towed at the owner's expense. The Department and the Commonwealth do not assume responsibility for any vehicle or its contents while parked at the facility or when towed due to unauthorized parking.

*If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.*

*If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.*

**Table 3: Changes to the Emergency Regulation**

<b>Emergency chapter-section number</b>	<b>New chapter-section number, if applicable</b>	<b>Current <u>emergency</u> requirement</b>	<b>Change, intent, rationale, and likely impact of new or changed requirements since emergency stage</b>