



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**6 VAC 40-20 – Regulations for Breath Alcohol Testing  
Department of Forensic Science  
June 21, 2013**

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### **Summary of the Proposed Amendments to Regulation**

The Department of Forensic Science (DFS) proposes to amend its Regulations for Breath Alcohol Testing to: 1) allow DFS to deliver notice of license or certificate revocation to breath instrument operators or instructors by certified USPS mail or by equivalent signature required UPS or Federal Express, 2) remove obsolete language that refers to DFS providing preventative maintenance checklists and requires that a copy of this checklist be filled out for every breath test device assigned to affected agencies and 3) add language that informs agencies that breath test worksheets relevant to instruments currently in use are provided to agencies but may also be accessed and printed from DFS's website.

### **Result of Analysis**

Benefits likely outweigh costs for these proposed regulatory changes.

### **Estimated Economic Impact**

Current regulations require that DFS deliver notice of revocation to breath test instructor licensees and breath test operators certificate holders by certified USPS mail. In other areas of practice, however, DFS has found that sending mail by signature required UPS or Federal Express mail tends to be less expensive and also offers the benefit of nearly instant verification that mail has been delivered. Because of this, DFS now proposes to amend these regulations so that mail service that is equivalent to certified mail (in that it requires the recipient to sign for it) may be used to mail notice of revocation to individuals who are losing their department issued licenses or certifications. This change will benefit DFS, and taxpayers who fund DFS, because DFS will have the ability to choose the least costly equivalent mailing service rather than being

constrained to only using certified USPS mail. No entity is likely to incur costs on account of this regulatory change.

DFS also proposes to remove language from these regulations that references testing of equipment that is no longer in use in the Commonwealth and to add language that informs localities of breath test worksheets (in use with newer breath test equipment) that will be distributed by DFS and that are also available for download on the department's website. No entity is likely to incur costs on account of these changes. Licensees and certificate holders, as well as other interested parties will likely benefit from changes that remove obsolete language and clarify current practice.

### **Businesses and Entities Affected**

DFS reports that there are 5,000 breath instrument operators and 35 breath instrument instructors all of whom will be affected by these regulatory changes. DFS additionally reports that there are 168 breath instruments that are operated in 165 localities throughout the Commonwealth.

### **Localities Particularly Affected**

No localities will be particularly affected by these proposed regulations.

### **Projected Impact on Employment**

This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

### **Effects on the Use and Value of Private Property**

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

### **Small Businesses: Costs and Other Effects**

No small business is likely to incur any additional expense on account of these regulatory changes.

### **Small Businesses: Alternative Method that Minimizes Adverse Impact**

No small business is likely to incur any additional expense on account of these regulatory changes.

## **Real Estate Development Costs**

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, a determination of the public benefit, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.