



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 45-20 – Board for Branch Pilots Regulations Department of Professional and Occupational Regulation February 18, 2000

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

This is a proposed revision to the existing regulations governing the licensure of branch pilots. Section 54.1, Chapter Nine of the Code of Virginia provides the Board of Branch Pilots (board) with the authority to amend these regulations. The board proposes two substantial changes. Chemical testing for impairment due to drugs or alcohol would be conducted on a random, unscheduled basis versus the current scheduled testing program. Also, under the new language, licensed branch pilots will be required to report all their prescriptions for medications and medical history to the medical review officer (MRO).

Estimated Economic Impact

Branch pilots must furnish to the board evidence of a satisfactory physical examination conducted within the last sixty days of each year in order to renew their license. Currently, the 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.” Under the proposed amended regulation, the required annual physical examination will no longer include the chemical test for drugs or alcohol described above. Instead, the board proposes to introduce the random unscheduled testing of on-duty branch pilots for evidence of impairment due to the use of drugs or alcohol.

The MRO will conduct the random unscheduled testing. According to the proposed language, between 30 percent and 100 percent of licensees will be tested annually. Once an individual is randomly chosen for testing, he or she will remain in the pool of candidates to be randomly chosen. Thus, some individuals may be tested more than once a year. Currently, all 41 licensed branch pilots are tested once a year. According to the Department of Professional and Occupational Regulation (department), the cost of running the random unscheduled testing program will be approximately equal to that of the current scheduled testing.

The purpose of testing for drugs and alcohol is to determine whether licensees are impaired, and thus more likely to cause or be involved in an accident while piloting a ship. Under the current testing program, licensees only need to refrain from consumption of drugs and alcohol for a limited amount of time before their once a year scheduled test to avoid detection of use of drugs or alcohol. The proposed random unscheduled testing program will likely provide some deterrent to the consumption of drugs and alcohol throughout the year. The board may suspend a license or deny renewal of licensure if the test results indicate impairment or if the licensee refuses to take the test.

Though there have been no incidences of major accidents in Virginia linked to impaired branch pilots, there have been such incidences elsewhere in the country.¹ The cost of major accidents can be in the millions of dollars. The last major accident involving Virginia branch pilots occurred on July 1, 1990 on the Potomac River. In a collision between the oil container ship Columbus America and the Neptune Jade, the former ship sustained an estimated \$1 million worth of damage, while the latter ship had about \$300,000 in damage. Oil leaked from the Columbus America and produced an unspecified amount of environmental damage.² In addition to substantial damage to ships and the environment, accidents could also limit the conduct of

¹ Source: Department of Professional and Occupational Regulation

commerce on particular bodies of water, causing significant delays and increased costs to businesses and citizens.

It seems likely that the random unscheduled chemical testing program would be more effective in deterring branch pilots from participating in activities that leave them impaired while on duty than would the current scheduled program. Licensees would be aware that the likelihood of their being caught impaired and subsequently disciplined would be greater under the proposed new program. Chemically impaired (drugs or alcohol) automobile and truck drivers are more likely to be involved in accidents than sober drivers are. It seems reasonable to speculate that the same is true for branch pilots.³ Thus, it seems likely that the proposed change in drug testing program from scheduled to random and unscheduled would decrease the chance of an accident occurring at a given time. It cannot be determined by how much, if at all, that the probability of an accident would decrease at any given time due to the paucity of data. Nevertheless, since the cost of the proposed program is estimated to be approximately the same as the current program, and it seems likely that the probability of an accident occurring may be reduced somewhat by the proposed program, it is likely that the proposed program would produce a net economic benefit.

In addition to the proposed change in the chemical-testing program, the board also proposes to require branch pilots to report all their prescriptions for medications and medical history to the MRO. The MRO would then determine if any of the prescriptions or health status would cause the licensee to be impaired. Any time the MRO finds that the pilot may be impaired in the safe discharge of any of his duties, the MRO would report those findings to the licensee and the board. The board could then ask the licensee to voluntarily refrain from working while he is impaired, or suspend him if he refuses.

Unlike the proposed change in the chemical-testing program, this proposed amendment to the regulation would increase costs. According to the department, the Virginia Pilots Association would pay the MRO approximately an additional \$2,000 a year for the additional review work. All Virginia branch pilots are members of the Virginia Pilots Association and indirectly pay its expenses.⁴ Since there are currently 41 branch pilots in the Commonwealth and

² Source: Department of Professional and Occupational Regulation

³ No specific studies are known to exist.

⁴ Source: Department of Professional and Occupational Regulation

the association, the proposed amendment would cost each pilot about \$50 per year. Though it seems probable that the proposed amendment would increase the likelihood that the MRO would be able to prevent an impaired licensee from piloting a ship, there is no evidence to indicate by how much the proposed amendment would decrease the probability of accidents, if at all. Thus, it cannot be determined whether the proposal to require branch pilots to report all their prescriptions for medications and medical history to the MRO would produce a net economic benefit.

Businesses and Entities Affected

All current branch pilots as well as those individuals considering becoming branch pilots are affected by the proposed amendments to the regulation. According to the department, in Virginia 38 individuals possess a full branch pilot license and three individuals possess a limited branch pilot license. The MRO employed by the Virginia Pilot Association will gain additional business.

Localities Particularly Affected

All on-duty licensed branch pilots await duty assignments in Virginia Beach. Beyond some increased business for the MRO, the proposed amendments to the regulation will not particularly affect the local economy.

Projected Impact on Employment

The proposed changes may make it more likely that some licensees may have their license suspended or renewal application denied. There will be no impact on the quantity of work hours demanded.

Effects on the Use and Value of Private Property

The additional work for the MRO may increase the value of his practice.