



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

24 VAC 35-40 Certification Requirements Manual
Commission on the Virginia Alcohol Safety Action Program
Town Hall Action/Stage: 5853/9521
February 14, 2022

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Commission on the Virginia Alcohol Safety Action Program (VASAP) proposes to repeal 24 VAC 35-40 *Certification Requirements Manual*.

Background

The Alcohol Safety Action Program (ASAP) is a criminal justice program that uses community and state services to address the problem of driving under the influence of alcohol and other drugs. The ASAP system is composed of 24 local programs that provide services throughout the Commonwealth.² Local ASAPs receive referrals from local courts or the commission, and then deliver intervention services within locally-administered programs to specific municipal jurisdictions within Virginia pursuant to §§ [18.2-271.1](#) and [18.2-271.2](#) of the Code of Virginia.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://vasap.virginia.gov/>.

The regulation has not been updated since 1991 and no longer reflects current practice. Certification of local ASAPs occurs every three years. The 24 local ASAP programs have been following certification requirements issued by the executive director of the Commission on VASAP for many years. The certification manual is currently being rewritten, but is expected to be available as a guidance document on Town Hall by the time this action to repeal the regulation becomes effective.³

Estimated Benefits and Costs

Repealing 24 VAC 35-40 would have no practical effect on the local ASAPs since they have already been following operational guidelines issued by the Commission on VASAP. Local ASAPs are established by the Commission and must be recertified every three years. Thus removing the policy and procedures from the Virginia Administrative Code and replacing them with guidance documents would not change the scope of the local programs' legal responsibilities, the incentives they face to provide services as directed by local courts, or the costs and benefits that arise from the performance of these duties.

Businesses and Other Entities Affected

Repealing the regulation would not affect businesses or other entities besides the ASAPs, who are already aware of the action and the current requirements as contained in the guidance document.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, repealing the regulation would not create any costs or benefits. Thus, an adverse impact is not indicated.

³ Email from the Commission on VASAP to DPB, February 2, 2022.

⁴ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

Small Businesses⁵ Affected:⁶

The proposed amendment does not appear to adversely affect small businesses.

Localities⁷ Affected⁸

The proposed amendment would not affect any localities.

Projected Impact on Employment

The proposed amendment does not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposed amendment would not affect the value of any private property or real estate development costs.

⁵ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁶ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁷ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.