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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC5-440
VAC Chapter title(s)	Regulations for Summer Camps
Action title	Amend Regulations following Periodic Review
Date this document prepared	April 21, 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 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Regulations for Summer Camps (hereafter, "Regulations") were intended to protect the health and safety of patrons under the age of 18 participating in overnight camps for entertainment, education, recreation, religious instruction or activities, physical education, or health. Environmental health staff permit and inspect these facilities for approved water and sewage, camp location, food handling, and general sanitation. On October 10, 2021, the agency completed a Periodic Review of the Regulations and concluded they required amendment. This regulatory action intends to update the Regulations with modern standards for health and safety at summer camps.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

"Board" or "State Board" means the State Board of Health.

“Summer camp” means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, that is operated or used in this Commonwealth for the entertainment, education, recreation, religious instruction or activities, physical education, or health of persons under 18 years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if 12 or more such persons at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

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 the ORM procedures, “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.”

This regulatory action derives from a 2021 periodic review of this chapter.

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.

The promulgating agency is the State Board of Health

Section 35.1-11 of the Code of Virginia states,

“The Board shall make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of this title and to protect the public health and safety. In promulgating regulations, the Board shall consider the accepted standards of health including the use of precautions to prevent the transmission of communicable diseases, hygiene, sanitation, safety, and physical plant management.”

Section 35.1-16 of the Code of Virginia states,

“The regulations of the Board governing summer camps shall include, but not be limited to: (i) an approved drinking water supply; (ii) an approved sewage disposal system; (iii) an approved solid waste disposal system; (iv) the adequate and sanitary preparation, handling, protection

and preservation of food; (v) the proper maintenance of buildings, grounds, and equipment; (vi) vector and pest control; (vii) toilet, swimming, and bathing facilities, including shower facilities; (viii) a procedure for obtaining a license.”

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The Regulations are essential to protecting the health and safety of children and staff of summer camps. Adequate oversight of camp management and operations is critical to ensuring a safe and healthy camp environment for children and staff engaging in healthy group activities. Effective facility maintenance, safety equipment, food handling, staffing, and general operations can mitigate risks associated with camping, dining, outdoor recreation, swimming, and other group or individual activities associated with summer camps.

While the current regulations contain provisions addressing some of these issues, the regulations are vague in language and direction and are out of date with many industry standards including proper food handling and storage. The general management of summer camp facilities lacks content related to safety and staffing, sanitary facilities, and administrative processes, among other items. This update will assist Virginia summer camps in providing safe and healthy environments and activities for their patrons consistently throughout the Commonwealth.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Substantive changes to existing sections will be considered in the following areas:

1. Camp location
2. Water and sewage provisions
3. Storage, handling and preparation of food, including milk storage
4. General sanitation
5. Swimming facilities
6. Disease reporting and outbreaks

New substantive provisions will be considered in the following areas:

1. Definitions
2. Administrative processes and licensure
3. Sanitary facilities
4. Lodging
5. Pest and vector control

- 6. Camper care and staffing
- 7. Health, first aid and safety
- 8. Inspections
- 9. Enforcement

VDH also intends to amend sections that may be determined, upon further review, to be outdated or inconsistent with policy and practice. Other revisions to the regulatory content may also be proposed based on public comment and from discussions with stakeholders.

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 alternative is not to revise the Regulations. However, this will result in maintaining outdated or conflicting standards for food handling and storage, facility maintenance, and general operations, and will not provide provisions for lodging, sanitary facilities, vector and disease control, camper safety, or administrative processes.

Providing clear and modern standards helps provide consistent oversight and management while reducing the risk of illness and injury at summer camps throughout the Commonwealth.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

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. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Virginia Department of Health is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

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 website at: <https://townhall.virginia.gov>, or Comments may also be submitted by mail; email, Briana Bill, briana.bill@vdh.virginia.gov; or fax (804) 864-7475. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.