



Virginia Department of Planning and Budget Economic Impact Analysis

12 VAC 5-440 Regulations for Summer Camps
Virginia Department of Health
Town Hall Action/Stage: 5960/10269
July 3, 2024

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 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

As a result of a 2021 periodic review,² the State Board of Health (Board) seeks to repeal the current language in the *Regulations for Summer Camps* (12 VAC 5-440) in its entirety and replace it with updated language and a comprehensive set of requirements that the Board states are necessary for the health and safety of the campers.

Background

Section 35.1-1 of the Code of Virginia (Code) defines “summer camp” to refer to a variety of settings in which 12 or more individuals under 18 years of age, who are not related to the camp operator, reside overnight, for more than two consecutive days.³ Further, Virginia Code § 35.1-16 specifies that the Board’s regulation 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,

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://townhall.virginia.gov/l/ViewPReview.cfm?PRid=2027>.

³ See <https://law.lis.virginia.gov/vacode/title35.1/chapter1/section35.1-1/> for the full definition.

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; and (viii) a procedure for obtaining a license.⁴ Other than a recodification of the overall Title in 1981, which did not make substantive changes, the statutory requirements do not appear to have changed since 1940 (Chapter 303 of the 1940 *Acts of Assembly*).

Although *Regulations for Summer Camps* (12 VAC 5-440) addresses most of these requirements, the regulation does not include the procedure for obtaining a license and has not been amended since it was originally promulgated in the 1940s. Accordingly, the Virginia Department of Health (VDH) reports that the current language is incomplete, vague, archaic, and outdated, which is confusing for summer camp operators as well as the local health district staff who inspect and license such entities, as required by Virginia Code §§ 35.1-18, 35.1-20, and 35.1-22.⁵

During the 2021 periodic review of the regulation, the Board convened a workgroup to update all aspects of the regulation. The workgroup consisted of roughly 30 summer camp operators, staff from local health districts, VDH staff with subject matter expertise on relevant topics, a camp consultant, a representative for Independent Insurance Agents of Virginia, and a representative from the American Camps Association (ACA).⁶ As a result of their review, the Board seeks to repeal the current language in its entirety and replace it with a more comprehensive and detailed set of requirements.⁷

VDH reports that the proposed requirements reflect current practices that summer camp operators have voluntarily adopted since the regulation was initially promulgated based on the demand from camp attendees and their families, industry trends and competitive pressures, insurance requirements, and/or the current requirements for voluntary accreditation by the ACA. Thus, although the proposed amendments would add a number of discretionary requirements,

⁴ See <https://law.lis.virginia.gov/vacode/title35.1/chapter2/section35.1-16/>.

⁵ See <https://law.lis.virginia.gov/vacode/title35.1/chapter3/>.

⁶ A full list of stakeholders can be found on pages 27-29 of the ORM Economic Review Form (ORM Form): https://townhall.virginia.gov/l/GetFile.cfm?File=58\5960\10269\ORM_EconomicImpact_VDH_10269_v1.pdf.

⁷ Pages 12-27 of the Agency Background Document (ABD) provide a mapping of current sections to proposed new sections and a summary of the new sections that would be added that address topics not directly covered by the current regulation. See https://townhall.virginia.gov/l/GetFile.cfm?File=58\5960\10269\AgencyStatement_VDH_10269_v1.pdf.

VDH reports that these additions would not be controversial or overly burdensome due to the extensive input they received from industry stakeholders throughout the process.⁸

VDH reports that in practice, the term “summer camp” has come to include group activities that occur outside of the summer months, because these activities meet the requirements in the statutory definition of having at least 12 minors, who are not related to the camp operator by blood or marriage, and who stay together overnight for three days or more. Thus, as a key part of updating the regulation, the Board seeks to replace “summer camp” with “resident camp” throughout the regulation.

The current regulation does not contain any definitions. In addition to adding a definition of “resident camp” that matches the statutory definition of “summer camp” in scope and meaning, the Board would also specify three exemptions to this definition for greater clarity. Thus, the proposed definition for “resident camp” would stipulate that resident camps would not include (i) programs for families, (ii) programs that are for credit at an accredited academic institution, or (iii) a tournament, competition, visitation, recruitment, campus conference, or a sports team training camp where accommodation would be provided at a facility that is already regulated by VDH, such as a hotel or campground.

Further, the statutory definition of “summer camp” is not restricted to permanent establishments; it includes “any building, tent, or vehicle, or group of buildings, tents or vehicles, if operated as one place or establishment...that is operated or used...” Moreover, the statutory definition applies to camps that operate either gratuitously or for compensation. Therefore, VDH has confirmed that the definition applies to group excursions and activities that are organized by scout troops, religious groups, educational institutions, non-profit organizations that serve youth, and other entities that do not own or operate a permanent establishment. These entities are subject to the statutory and regulatory requirements for summer camps provided that their activities involve 12 or more minors, who are not related to the camp operator by blood or marriage, who stay together overnight for three days or more. Thus, the Board also proposes to add a definition for “rental group” to cover situations where these entities may operate a

⁸ At the Board’s April 10, 2024 meeting, four representatives of the workgroup expressed appreciation and support for the proposed amendments to this chapter. See page 3:
https://townhall.virginia.gov/L/GetFile.cfm?File=Meeting\58\39654\Minutes_VDH_39654_v1.pdf.

“resident camp” by renting or using either a permitted resident camp’s facilities or an existing facility that is not a permitted camp.

Lastly, the new section 130 would allow the commissioner to grant variances if, in the commissioner’s discretion, “(i) the hardship, which may be economic, imposed by the regulation outweighs the benefits that may be received by the public and (ii) granting the variance would not subject the public to health risks or adverse environmental impact.” This section would also detail the process by which regulants would apply for and receive a variance from the commissioner, which is provided for by Virginia Code § 32.1-12.

Estimated Benefits and Costs

The regulation is primarily intended to safeguard the health and safety of resident camp attendees and staff. The proposed new sections are intended to be unambiguous and comprehensive, and to reflect current standards and practices in the industry. This would benefit camp operators by providing a clear process for plan review and permits and clarity about what to expect in terms of inspection and enforcement. Specifically, VDH anticipates that the proposed requirements would prevent disease outbreaks and reduce the likelihood of accidents due to insufficient supervision or assault on a child by a camp employee due to insufficient background checks. VDH also reports the following: camp operators responding to such incidents would likely face direct costs from implementing mitigation measures and may have to pay significant damages or settlements arising from potential lawsuits; the resident camp may also incur reputational costs that could reduce future demand; adherence to the health and safety standards in the proposed regulation would reduce the risk of incurring large incident response costs, which would also result in lower insurance costs; and that the proposed requirements would benefit families who are sending children to resident camps by setting clear expectations for how their child’s health and safety will be protected.

Local health department staff who conduct these inspections and authorize permits would also benefit from having a shared understanding of the requirements with the camp operators. However, VDH anticipates that the proposed inspection requirements (in proposed section 180) may cost the agency up to an additional \$8,769 per year in extra staff time (or \$74.31 per

inspection) due to the addition of a pre-opening inspection; the current practice is to only conduct an inspection at least once per permit period during normal operating hours.⁹

New sections with requirements that would create additional costs for camp operators are described below:

- Sections 150 (Plan review) would require any plan for construction, addition, or renovation of a resident camp to be submitted at least 90 days prior to initiating such activity and includes a list of specific requirements that must be addressed in the plan documentation.¹⁰ VDH notes that this requirement could lead to cost savings to the extent that it prevents camp owners from investing in features, buildings, or systems that fail to meet the standards in the regulation and require costly revision.
- Section 160 (Permit to operate) would require camp operators to submit a Resident Camp Application Form (which would be added to the Forms section of the regulation) 30 days before the camp is to be opened and would specify the information to be included in the application. The requirements in these sections would mainly add an administrative cost of submitting the required paperwork, which includes plan documentation. VDH reports that the plan documentation would already be required for building and zoning permits, sewage construction permits, and other applicable processes that require approval, and would not create a significant new cost.¹¹
- Section 210 (Employee requirements) would require residential camps to maintain and enforce a written hiring policy, which would include a Criminal History Records Check or a National Criminal Background Check. The Criminal History Records Check, which is provided by Virginia State Police, would cost up to \$20 per employee for a combined Criminal History/Sex Offender Registry search.¹² The National Criminal Background Check, which is provided by the Federal Bureau of Investigation, would cost up to \$18 for the search and up to \$20 for collecting fingerprints as needed for the search at a local

⁹ See page 3 of the ORM Form.

¹⁰ The proposed text does not include a license/permit application fee. However, every Appropriations Act for the past several years has included a \$40 plan and specification review fee and a \$40 permit fee for hotels, campgrounds, and summer camps. See Item 294 C in the 2023 *Appropriations Act* on page 345: <https://budget.lis.virginia.gov/get/budget/4784/HB6001/>.

¹¹ See page 2 of the ORM Form.

¹² See the instructions for form SP-167 for details: <https://vsp.virginia.gov/services/criminal-background/>.

sheriff's office.¹³ The background check would have to be repeated every three years for year-round staff, and annually for new or returning seasonal staff.

In addition, this section would require that the written hiring policy be reviewed and signed by legal counsel or a human resources professional every three years. Every such review is expected to cost up to \$1,325 if the resident camp does not have an appropriately qualified human resources person on staff to conduct the review.¹⁴

- Section 220 (Supervision) would add a table with minimum staffing ratios based on campers' ages. Depending on resident camps' current staffing ratios, some operators may need to hire more staff to meet these requirements, which is expected to cost an additional \$16 per hour or up to \$635 per week for each additional staff member needed to address these requirements.¹⁵ This section would also specify that specialized program activities be led and directly supervised by an adult trained in the activity; however, not all resident camps may offer specialized program activities.¹⁶
- Section 240 (Health care and safety) would require the designation of a camp health supervisor, who would be responsible for supervising routine and emergency health care, and who would hold current certification in basic first aid and basic life support. This section would also require written arrangements for medical care from a health care provider (on-staff or consulting), the collection and maintenance of medical records, written parental permission to provide routine health treatment (to be maintained for three years), that staff follow certain procedures for dispensing and storing medication, and to keep first aid supplies and equipment in a designated location.

Within a year of this regulation becoming effective, resident camps would have to ensure that (i) a person holding a current First Aid CPR certificate is on site 24 hours a day while camp is in session, and (ii) all resident camp staff receive annual training on health and safety topics including bloodborne pathogens, communicable disease prevention, infection

¹³ See <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks> and pages 4-5 of the ORM Form. Note that the national sex offender list is free to use.

¹⁴ See page 5 of the ORM Form.

¹⁵ See page 6 of the ORM Form.

¹⁶ "Specialized program activities" would be defined as "an activity that requires a special technical skill, equipment, or safety regulation, including fire building for outdoor cooking, kilns, and campfires; foraging for edible plants; ice fishing; pyrotechnics; horseback riding; challenge courses; air pillows; zip lines; archery; motorized vehicles; power tools; model rocketry; and use of firearms."

prevention strategies, medication administration, and management of medical emergencies. The proposed text includes recordkeeping requirements relating to staff training. Lastly, emergency medical services and transportation to such services must be made available, including via 911 emergency response, and certain incidents and accidents would have to be reported to the local health department within 24 hours.

VDH does not anticipate that camps will incur substantial direct monetary costs related to these requirements, noting the stakeholder workgroup indicated that most camp establishments already employ or have a camp health supervisor.¹⁷

- Section 260 (Emergency response plan and provisions) would require emergency contact information to be posted and for resident camps to have a written emergency transportation policy and a written plan for actions to be taken in response to a number of possible hazardous scenarios. As before, VDH does not anticipate that camps will incur substantial direct monetary costs related to these requirements, noting that the stakeholder workgroup indicated that most camps already work with a physician for medical services or emergency health plans.¹⁸
- Section 280 (Water supply) would require resident camps to test drinking water for lead every five years and implement treatment plans if indicated; this is estimated to cost approximately \$57 per sample. Resident camps using private wells for potable water would be required to test for total coliform and nitrate-nitrogen every year; these tests would cost a total of \$108 per year.¹⁹ In addition, for field outings where it may not be possible to access safe drinking water, drinking water must be boiled or filtered and treated with a chemical product or ultraviolet light; the filtration and treatment options are estimated to cost \$145-\$233.²⁰ Lastly, any wells springs that do not meet the water safety standards would have to be marked with signage warning people not to drink the water.
- Section 310 (Sanitary facilities) would specify that every resident camp shall provide adequate sanitary facilities within 500 feet of all sleeping accommodations, or as specified by the applicable building code. Adequate facilities would be specified to mean at least one toilet and one handwash facility for every ten campers and staff and at least one shower for

¹⁷ See page 7 of the ORM Form.

¹⁸ See page 7 of the ORM Form.

¹⁹ See page 11 of the ORM Form.

²⁰ See page 13 of the ORM Form.

every twenty campers or staff. Resident camps that do not have adequate facilities within the required distance could meet the requirements by renting portable facilities, which is estimated to cost \$100-\$500 per month.²¹

- Sections 350 (Specialized program activities), 360 (Aquatic activities), 370 (Swimming facilities), 380 (Boating or other watercraft activities), and 390 (Animals), contain specific requirements that would be conditional on the resident camp offering that specific program or service. Camp operators that choose to offer these programs may face new or additional costs based on the requirements for lifeguards, floatation devices, safety equipment, license and vaccinations for animals, the maintenance of pools and livestock area. VDH indicates that these requirements reflect current practice as reported by the stakeholder workgroup. Some summer camps may face incremental costs if, for example, they already hire certified lifeguards, but need to hire additional lifeguards to meet the required ratio of one lifeguard per 25 campers, or additional attendants to meet the requirement of one attendant per 10 campers (in addition to the lifeguards), or to develop and maintain a lifeguard and attendant staffing plan containing the information required by the proposed text.
- Lastly, Section 400 (Transportation) contains safety and recordkeeping requirements for any vehicle used to transport campers.

Some of the proposed sections that may create costs also refer to other regulatory or statutory requirements that already apply. However, to the extent that these requirements were already imposed by other laws and regulations, including these references would not in itself create new costs. These include the Uniform Statewide Building Code (13 VAC 5-63), Virginia Statewide Fire Prevention Code (13 VAC 5-52), List of diseases that shall be reported (12 VAC 5-90-80), Persons required to report (12 VAC 5-90-90), Waterworks Regulations (12 VAC 5-590), Private Wells Regulations (12 VAC 5-630), Sewage Handling and Disposal Regulations (12 VAC 5-610), Food Regulations (12 VAC 5-421), Regulations Governing Tourist Establishment Swimming Pools and Other Public Pools (12VAC5-460) and the Swimming Pool Regulations Governing the Posting of Water Quality Test Results (12VAC5-462), statutory requirements for owner's vehicle insurance coverage (Virginia Code § 46.2-472), and child restraint devices when transporting children (Virginia Code § 46.2-1095 *et seq.*). Including these

²¹ See pages 16-17 of the ORM Form.

citations in the regulation benefits camp operators by specifying which requirements outside of this regulation would be enforced.

Businesses and Other Entities Affected

There were 113 permitted overnight summer camps in Virginia in 2023; of these approximately 40 are accredited by the ACA. VDH reports that as the industry has evolved, the type of entities that operate resident camps now varies widely. Large operators include the Boy Scouts of America, 4-H, and the YMCA. However, a number of small, independent resident camps are also run as owner-operated small businesses. Many resident camps own and run their own facility, but as previously stated, some entities may operate a resident camp at a rented venue. VDH does not collect information on which permit applicants are small businesses or are operating a summer camp as a rental group.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.²² An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.²³ As described above, the proposed amendments include the addition of a number of new requirements that would create new costs for camp operators. To the extent that the proposed text reflects current practice, some resident camps may already meet these requirements and may not face any new costs. However, these requirements would increase the operating cost for any entity that may open or operate a new resident camp in the future, thereby increasing barriers to entry into the industry. Thus, an adverse impact is indicated.

²² 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.

²³ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

Small Businesses²⁴ Affected:²⁵

The proposed amendments would adversely affect resident camps that are operated as a small business. As mentioned previously, Section 130 of the proposed text would allow the commissioner to grant variances if the economic hardship imposed by the regulation outweighs the public benefit as long as granting the variance would not subject the public to health risks or adverse environmental impact. Thus, small businesses could request that some requirements be waived, at least temporarily, so that they have more time to create new documentation or implement new administrative processes.

Types and Estimated Number of Small Businesses Affected

VDH does not collect information on the number of resident camps that are operated as a small business.

Costs and Other Effects

None of the proposed requirements would be specific to small businesses. However, the cost of implementing some requirements may be disproportionate for small businesses. For example, requiring the hiring policy to be reviewed and signed by a legal or human resources professional every three years may be relatively inexpensive for camps operated by large organizations that have an in-house legal or human resource department, whereas the cost of meeting that requirement would be higher for a small business that would likely need to contract with an independent professional or private firm. Similarly, large organizations that run multiple camps across the country may benefit from economies of scale in sourcing equipment needed to comply with certain requirements or may already employ in-house subject matter experts who can write emergency response, human resources, or other policies that would apply to multiple

²⁴ 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.”

²⁵ 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.

camp locations, or who can provide the required health-related trainings to camp staff at various locations. However, small independent resident camps may be disproportionately impacted by these requirements because they cannot spread the costs across locations or absorb the additional workload with existing personnel.

Alternative Method that Minimizes Adverse Impact

There is no alternative method that would minimize adverse impact while achieving the objectives of this regulatory action.

Localities²⁶ Affected²⁷

VDH reports that local and tribal governments, school divisions, or other local authorities would not be affected by this action, unless they implement a local ordinance or other code specific to resident camps, or if they operate a resident camp. To the extent that resident camps tend to be located in picturesque outdoor settings, rural localities with natural features that attract campers would be more likely to be affected by this regulation.

Projected Impact on Employment

This action could increase the employment of camp staff, to the extent that resident camps do not already meet the staffing ratios in the proposed requirements. Trained individuals who can provide instruction for specialized program activities may find more employment opportunities if some camps determine that their current instructors do not meet the criteria in the proposed text, or if more camps start offering such activities. Consultants and subject matter experts who may advise on safety policies or provide trainings to camp staff may also find increased opportunities among camps in Virginia as a result of the proposed amendments.

Effects on the Use and Value of Private Property

If the proposed changes lead to an increase in net operating costs of resident camps that are operated as private businesses, then the value of those private businesses would be reduced due to a reduction in profits. Conversely, the proposed changes could lead to a commensurate increase in revenues due to a growth in demand from parents who favor these changes. Insufficient information is available to determine which of these potential results would prevail.

²⁶ “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.

²⁷ Virginia Code § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

The proposed amendments could affect real estate development costs specifically for the development of new resident camps or additions to existing resident camps to the extent that the requirements for the construction of resident camp structures and provision of sanitary facilities, water supply, and sewage disposal differ from any requirements that are currently implemented in practice, even if those requirements are not in the current regulation.