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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department for the Blind and Vision Impaired
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC 45-12
VAC Chapter title(s)	Public Participating Guidelines
Date this document prepared	November 21, 2023

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*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DBVI or Agency – Department for the Blind and Vision Impaired

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 or 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.

Code of Virginia § 2.2-4007.02 Public participation guidelines. DBVI shall solicit input of interested parties in the formation and development of its regulations which shall be developed, adopted, and used by the agency pursuant to the provisions of this chapter. The guidelines set out methods for the identification and notification of interested parties and specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notices of Intended Regulatory Action. DBVI shall afford interested persons an opportunity to submit data, views, and arguments, orally or in writing, to the agency, to include online public comment forum on the Virginia Regulatory Town Hall or other specially subordinate and be accompanied by and represented by counsel or other representative.

Code of Virginia Sections 2.2-4017 (Periodic review of regulations) and 2.2-4007 (Notice of intended regulatory action; public hearing) and Executive Order 17 (2004) in combination require that every state regulation must be reviewed every four years to ensure the regulation is supported by statutory authority, determine that the regulation is necessary for the protection of public health, safety and welfare and are clearly written and easily understandable, and to make sure the regulations economic impact on small business is minimized as much as possible.

Administrative Code §51.5-65 Functions, duties and powers of Commissioner. In addition to the functions, duties, and powers conferred and imposed upon the Commissioner by other provisions of law, he shall, in part, ensure that the provisions of this chapter are properly administered and adopt regulations to carry out the applicable provisions of this chapter.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are no other viable options for achieving the purpose of the regulation at this time. Code of Virginia Sections 2.2-4017 (Periodic review of regulations) and 2.2-4007 (Notice of intended regulatory action; public hearing) and Executive Order 17 (2018) in combination require that every state regulation must be reviewed every four years to ensure the regulation is supported by statutory authority, determine that the regulation is necessary for the protection of public health, safety and welfare and are clearly written and easily understandable, and to make sure regulation’s economic on small business is minimized as much as possible.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

None received

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

22 VAC 45-12 protects the public health, safety, and welfare of Virginia’s residents who are blind, vision impaired, and deafblind by ensuring that interested stakeholders have opportunities for public participation to provide input into DBVI’s formation and development of regulations that address programs, services, and concerns of persons who are blind and vision impaired.

This regulation clearly and simply describes its purpose, definitions of relevant words and terms used in the chapter, requirement that the agency maintain a list of persons who have requested to be notified of regulatory actions and the information to be sent to individuals on the notification list, and, provides occasions that afford interested persons an opportunity to submit data, views, and arguments, orally or in writing. Additionally, the regulation clearly describes that any person may petition the agency to consider regulatory action, that the agency may appoint a regulatory advisory panel to provide professional specialization or technical assistance to address specific regulation issues or when individuals indicate an interest in working with the agency on a particular issue or action and/or a negotiated rulemaking panel if a regulatory action is expected to be controversial respectively. The regulation clarifies that notice of public meetings shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the meeting and that the agency shall indicate in its notice of intended regulation action whether it plans to hold a public hearing following the notification of the proposed stage of the regulatory action. Finally, the regulation explains that the agency shall conduct a periodic review of its regulations pursuant to §§ 2.2-4007 and 2.2-4017 of the Administrative Process Act.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

DBVI will retain 22 VAC45-12 as is without making changes. The regulation complies with requirements set forth in Code of Virginia Sections 2.2-4017 Periodic review of regulations, § 2.2-4007.02 Public participation guidelines, and Executive Order (July 2018).

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

22 VAC 45-12 is required for DBVI to be in compliance with requirements set forth in Code of Virginia Sections 2.2-4017 Periodic review of regulations, § 2.2-4007.02 Public participation guidelines, and Executive Order (July 2018). The agency has not received any complaints or comments concerning the regulation.

The regulation is not necessarily complex but does describe in relative detail its purpose, definitions of relevant words and terms, and other specific public participation guidelines as required by the Code of Virginia and Administrative Code. The regulation continues to be relevant because the agency administers workforce and independent living programs and services that impact the lives of individuals who are blind, vision impaired, and deafblind in the workforce and in the community.

This regulation was last evaluated in June of 2017 and does not conflict with state or federal regulation and has negligible impact on small business. There are no substantial changes in technology, economic conditions, or other factors that impact the importance of implementation of the regulation.

Economic impact on small business is negligible and small business owners have the same opportunity for public participation as other interested stakeholders.

