



townhall.virginia.gov

Periodic Review and Small Business Impact Review Report of Findings

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5 -115
VAC Chapter title(s)	Regulations for Determining Whether a Facility Meets the Purpose of Finding Permanent Adoptive Homes for Animals
Date this document prepared	September 12, 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.

"VDACS" means the Virginia Department of Agriculture and Consumer Services.

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.

Section 3.2-109 of the Code of Virginia (Code) establishes the Board of Agriculture and Consumer Services (Board) as a policy board.

Chapter 319 of the 2016 Acts of Assembly requires the Board to “adopt regulations that determine whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals.”

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 viable alternatives to this regulation. The promulgation of this regulation is required by Chapter 319 of the 2016 General Assembly.

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.

An informal advisory group was not formed for the purpose of assisting in this periodic review.

Commenter	Comment	Agency response
<p><u>Town Hall (0)</u></p> <p><u>Letter directly to agency (31):</u> Chesapeake Animal Services; Chesapeake Humane Society; City of Fairfax Animal Control; Frederick County Administrator; Norfolk SPCA; Danville Area Humane Society; Rockingham-Harrisonburg SPCA; Clarke County Board of Supervisors; Virginia Beach SPCA; Virginia Alliance for Animal Shelters; Animal Control Officers Martinette, Fly, Cave, Bennett, Strouse, Burton, Streets; private individuals Hicks, Tuggle, Joseph, Burns, Dean, Guevara, Holden, Hankins, Liverman, Capps, Raykhman, Deffinger, Corprew, Shepherd</p>	<p>Commenters expressed a desire to maintain the regulation as-is with no amendments.</p>	<p>The regulation will be retained as-is with no amendments.</p>

<p><u>Town Hall (0)</u></p> <p><u>Letter directly to agency (4):</u> Senator Boysko; Delegates Orrock, Hayes, and Glass</p>	<p>The comments received from these legislators expressed that the legislators desire the agency to retain the regulation as-is with no amendments and that the regulation meets the intent of the legislation requiring their promulgation.</p>	<p>The regulation will be retained as-is with no amendments.</p>
--	--	--

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.

The regulation establishes criteria to determine if a facility is operating for the purpose of finding permanent adoptive homes for animals by requiring that a facility find permanent adoptive homes for animals and engage in activities that promote adoption, such as being accessible to the public, advertising adoption, transferring animals to other releasing agencies for adoption, temporarily placing animals in a foster home while awaiting adoption, or offering services to keep animals in their permanent home. The regulations were deemed necessary by the General Assembly for the protection of animal welfare. The agency received public response that the regulations are clearly written and easily understandable. The regulation is concisely written and contains no more requirements than necessary to achieve its purpose.

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.

Based on public comments received by the agency, the agency will retain the regulation as-is without making changes. Chapter 319 of the 2016 Acts of Assembly requires the Board to “adopt regulations that determine whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals.” The comments that the agency received all supported retaining the regulation as-is with no changes, and the agency did not receive any comments to the contrary. The agency has not received any complaints regarding this regulation since it became effective in 2019.

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 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.

Chapter 319 of the 2016 Acts of Assembly requires the Board to “adopt regulations that determine whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals.” The comments that the agency received all supported retaining the regulation as-is with no changes, and the agency did not receive any comments to the contrary. The agency has not received any complaints regarding this regulation since it became effective in 2019. The regulation is clearly written, simple, and easily understood. The regulation does not overlap or conflict with federal or other state laws or regulations. No changes to technology, economic conditions, or other factors have occurred since this regulation became effective in 2019 that would necessitate amendments to the regulation. The agency is not aware of any direct or indirect impacts on small businesses, as the regulants are private animal shelters, which, by law, must be non-profit organizations. The regulation does not require economic investment from regulants, which minimizes its economic impact.
