



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

12 VAC 5-501 Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps

Virginia Department of Health

Town Hall Action/Stage: 6183/11142 Proposed

July 14, 2026

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 17 (2026). 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

Following a 2022 periodic review, the State Board of Health (Board) seeks to amend the regulation governing migrant labor camps to update and clarify the requirements for the design, operation, maintenance, and safety of such camps.²

Background

The Virginia Department of Health's (VDH) Office of Environmental Health Services reports that the regulation is outdated and confusing and does not reflect current health and safety standards. According to VDH, the *Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps* (12 VAC 5-501) was first promulgated in the 1950s, amended in 1980, recodified in 2006, and has not been updated since.

The outdated nature of the text also affects two other state agencies, which rely upon this regulation. The Agriculture and Foreign Labor Certification Program, by which Virginia Works approves the employment of foreign workers under the H-2A temporary agricultural program, requires migrant labor camps to be permitted under this regulation.³ Similarly, this regulation is

¹ See Code § 2.2-4007.04 (A).

² See periodic review at <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2100>.

³ See <https://virginiaworks.gov/im-an-employer/hire/discover-agriculture-and-foreign-labor-certification/>.

intended to supplement the Department of Labor and Industry's (DOLI) Virginia Occupational Safety and Health program as it pertains to migrant labor camps. Thus, unclear and outdated regulatory text also affects Virginia Works' foreign labor certification process and DOLI's investigations and enforcement with respect to migrant labor camps.

VDH convened a 66-person workgroup to review and revise the regulation. The workgroup included (i) eight members from local VDH health districts; (ii) seven subject matter experts from VDH's Office of Environmental Health Services; (iii) 11 representatives from other agencies including Virginia Works, DOLI, the Department of Housing and Community Development, the Virginia Department of Agriculture and Consumer Services, and the U.S. Department of Labor; (iv) 12 representatives from associations such as the Virginia Agribusiness Council, Virginia Farm Bureau, Virginia Agricultural Growers Association, Legal Aid Justice Center, Agricultural Workers Advocacy Coalition, the VA Farm Workers Program of the Virginia Legal Aid Society, Labor Services International, the Virginia State Dairymen's Association, and the Virginia Nursery and Landscaping Association; and (v) 28 representatives from private businesses including farms, vineyards, and migrant labor camp owners.

The proposed changes fall under two categories: changes that serve to (i) clarify and streamline the current text to promote consistency and uniform enforcement, and that (ii) add specific requirements that are necessary to ensure the health and safety of migrant workers. The proposed changes to sections 10 through 300 fall under the first category, whereas changes to sections 310-350 fall under the second category. Sections 360-420 would be newly added and also fall under the second category; these requirements address sleeping facilities, sanitation, temperature control, food, pests, first aid, and communicable disease. The most substantive changes are summarized below.

Changes that clarify and streamline the current text

- Section 10 (Definitions) would be amended to add a number of definitions and clarify the definition of "migrant labor camp." The current definition, which is identical to the definition in Code §32.1-203, contains the phrase "unconventional enclosures of living space," which has been considered vague. The Board seeks to clarify this provision in the regulation by inserting, "constructed or manufactured for the purpose of lodging

accommodations.” This change is not expected to affect the scope of entities to whom this regulation applies.

- Sections 20 (Purpose of regulations) through 100 (OSHA enforcement), as well as sections 130 (Case decisions) through 160 (Appeals) would be repealed because they repeat statutory provisions.⁴
- Section 170 (Notice of intention to construct or remodel camp and submission of plans) would be renamed “Plan review” and amended to reflect the plan review process. The proposed changes are similar to the plan review requirements in other VDH regulations. (See, for example, 12 VAC 5-450-30 for campgrounds and 12 VAC 5-460-30 for swimming pools at tourist lodgings.) Specifically, the proposed changes would address confusion regarding remodeling by inserting a clarification that, “Cosmetic remodeling where a permit is not required by the authority having jurisdiction of the applicable building code shall not require plan review.”

Proposed changes in sections not included in the list above largely serve to update terminology and references to state and federal regulations, clarify procedures, and remove outdated or redundant language.

Changes that add specific requirements

The proposed changes in sections 310-420, which add specific requirements, including requiring compliance with other current state and federal regulations, are summarized below. Many of the new requirements address situations where the federal Employment and Training Administration (ETA) and Occupational Safety and Health Administration (OSHA) standards are vague, conflicting, outdated, or require standards to be set by an “applicable health authority.”⁵

⁴ The Agency Background Document (ABD) cites the specific statutory references for each section. See pages 19-22 in https://townhall.virginia.gov/L/GetFile.cfm?File=58\6183\11142\AgencyStatement_VDH_11142_v1.pdf.

⁵ ETA standards can only be used for migrant labor camps where all structures were either constructed before April 3, 1980 or where a contract for construction was signed prior to March 4, 1980. All other migrant labor camps are governed by OSHA standards, as implemented by the Virginia Occupational Safety and Health regulations (16 VAC 25-90).

-
- Section 310 (Trash and garbage collection) would be renamed “Solid waste,” and amended to specify requirements for trash containers and correct the reference to the *Solid Waste Management Regulations* (9 VAC 20-80).
 - Section 320 (Requirements for water supplies) would be amended to specify acceptable water supply sources, cite the applicable regulations that govern those water supply sources, require private well users to test total coliform and nitrous-nitrate levels, and include provisions for discontinuation, reinstatement, and emergency use. These requirements are similar to current requirements for campgrounds (see 12 VAC 5-450-80).
 - Section 330 (Requirements of sewage disposal) would be amended to require camps to adhere to the *Sewage Handling and Disposal Regulations* (12 VAC 5-610) and to explicitly prohibit the discharge of waste directly into the ground or a body of water.
 - Section 340 (Storage of Hazardous Materials) would require (i) compliance with the *Virginia Pesticide Control Act* and related regulations, (ii) that hazardous substances be stored away from food, living quarters, and private wells (if applicable), and (iii) that pesticide, toxic chemicals, and other hazardous substance storage areas be clearly marked in the primary and secondary language of all housing occupants, including stating that hazardous substances are stored within.
 - Section 350 (Conformity) would be amended to (i) be renamed “Compliance with Uniform Statewide Building Code, Statewide Fire Prevention Code and local requirements,” (ii) insert citations (13 VAC 5-63 and 13 VAC 5-52, respectively), and (iii) specify that, “A migrant labor camp consisting of vehicular trailers, tents, or other unconventional enclosures of living space as lodging may not be subject to the Virginia Uniform Statewide Building Code.”
 - (NEW) Section 360 (Housing and sleeping facilities) would specify (i) the provision of adequate cots and mattresses, (ii) the spacing between beds, (iii) the acceptable use of bunk beds, and (iv) requirements for smoke detectors and fire extinguishers.
 - (NEW) Section 370 (General sanitation and maintenance) would require camp operators to keep the facilities clean, safe, and functional.
 - (NEW) Section 380 (Heating and Cooling) would require (i) heating if outdoor temperatures fall below 68°F, (ii) window shades if outdoor temperatures exceed 80°F, and (iii) operable

cooling equipment capable of maintaining a temperature of 85°F or less if during the period of occupancy, the outdoor heat index exceeds 90°F. Any equipment used for heating or cooling must comply with any applicable manufacturer specifications.

- (NEW) Section 390 (Storage, handling, and preparation of food) would require any central dining areas to comply with and be permitted through the *Food Regulations* (12 VAC 5-421) unless otherwise exempt. If workers are expected to cook for themselves, the proposed text would specify requirements for refrigeration, stove burners, sink/hot water, food prep areas, lighting, ventilation, and fire extinguishers.
- (NEW) Section 400 (Insects, rodents, and weed control) would specify that an infestation of rodents or flies, ticks, mosquitoes, or other insects of public health concern, including bed bugs, would be considered a violation of the regulation. The proposed text would also require the control of these and other vectors.
- (NEW) Section 410 (Safety and first aid) would require the provision of (i) an OSHA-compliant first aid kit, (ii) an emergency response plan in the primary and secondary language of all housing occupants, and (iii) contact telephone numbers for local police, fire response, and emergency medical services to be posted in a centrally accessible location.
- (NEW) Section 420 (Communicable disease) would require compliance with the *Regulations for Disease Reporting and Control* (12 VAC 5-90).

Estimated Benefits and Costs

The proposed changes are intended to ensure statewide consistency in regulating migrant labor camps through an improved understanding and application of the regulation. The amendments align with current public health and industry standards and would improve health and safety protections for migrant workers. Having clear, enforceable standards in the regulation would also simplify compliance for permit holders, which would also allow them to obtain and maintain a foreign labor certification, if needed.

The proposed changes include the addition of some discretionary requirements that would be expected to create new costs for migrant labor camp permit holders. These requirements and related costs are described below; cost estimates provided by VDH are noted below where available.

- Section 320 (Requirements for water supplies) would require camps that use private wells to perform two water quality tests annually; these tests are estimated to cost approximately \$52 for one coliform sample and \$56 for one nitrate-nitrogen sample, for a total of \$108 per year.
- Section 340 (Storage of hazardous materials) would require (i) such storage areas to be clearly marked in the primary and secondary language of all housing occupants, and (ii) the provision of personal protective equipment, as indicated on applicable chemical safety data sheets, which shall be readily available for use by workers and for review upon request by VDH. Permit holders may incur costs associated with translation, procuring signage (estimated at \$16), and supplying personal protective equipment.
- Section 380 (Heating and cooling) would state that,

“all living quarter and service room windows shall be provided with window shades or other methods of minimizing radiant heat such that the use of windows is not impeded, when during the period of occupancy, the outdoor temperature exceeds 80°F.”

This is a new discretionary requirement. This section would also state that,

“rooms used for sleeping shall be provided with operable cooling equipment capable of maintaining a temperature of 85°F or less if during the period of occupancy, the outdoor heat index exceeds 90°F.”

VDH reports that neither ETA nor OSHA standards prescribe a method to reduce heat within migrant labor housing, and that other Virginia regulations require inside maximum temperatures between 80-85°F for occupants who cannot relocate (assisted living facilities, correctional facilities, etc.) These requirements may create new costs to the extent that permit holders need to procure window shades, fans and/or air conditioners. Window fans are estimated to cost \$55 each, and window air-conditioner units are estimated to cost \$196 each, plus the associated energy cost.

In contrast, the proposed requirements for indoor heating would align the regulation with ETA requirements by requiring heating if the outdoor temperature falls below 68°F. The regulation does not specify a target indoor temperature, because ETA and OSHA already specify these targets.⁶ Thus the heating requirements are not expected to create a new discretionary cost.

⁶ See pages 6-7 of the ABD for a detailed comparison of the proposed heating and cooling requirements with ETA and OSHA standards.

- Section 410 (Safety and first-aid) would require a permit holder to develop an emergency response plan and to post emergency contact phone numbers in a central location accessible to workers. The emergency response plan must be provided to camp occupants in the primary and secondary language of all housing occupants and must include certain provisions. Permit holders would likely incur some costs associated with plan development and translation. First-aid kits would also be required, and they are estimated to cost \$54 per kit; however, they are already required by both ETA and OSHA standards.
- Sections 170 (Plan review) and 180 (Permits) may create administrative costs by requiring the submission of more documentation and information at the time of application. However, these changes would also prevent delays during the review process.

In addition, some of the proposed requirements add specificity where the federal standard is vague, conflicting, or requires “approval by the appropriate health authority.” This may create a discretionary cost in some cases. For example, sections 360 (Housing...) and 390 (Storage,... of food) would add requirements for fire extinguishers. While ETA standards require that “fire extinguishing equipment must be provided in a readily accessible place located not more than 100 feet from each housing unit,” OSHA standards do not prescribe any fire extinguisher requirements. Thus, requiring a fire extinguisher in every camp structure including cooking areas would create a discretionary cost estimated at \$34 per fire extinguisher. Sections 360 and 390 also contain a number of specific requirements (and prohibitions) that may be considered discretionary even though they are broadly required by ETA or OSHA standards.⁷

VDH reports that a majority of migrant labor camps are permanent establishments that operate every year, either year-round or for part of the year on a seasonal basis. Thus, most of the new requirements would be expected to create one time-time costs, such as the cost of signage, window shades, fans or air conditioning units, or any alterations to the living facilities or cooking areas.

Businesses and Other Entities Affected

VDH reports that 372 migrant labor camp permits were issued in 2025, and that the number of permittees varies from year to year. Migrant labor camp owners and operators as well

⁷ See pages 5-8 of the ABD for a detailed explanation of requirements that fall within federal standards and requirements that are discretionary.

as migrant workers and their families that reside in migrant labor camps would be directly affected by the proposed amendments. In addition, VDH notes that local partners or associations such as the Virginia Agribusiness Council, Virginia Farm Bureau or similar entities may be affected by this action in terms of notifying their constituents and/or providing information or other support.

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ 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.⁹ As indicated above, the proposed changes include certain discretionary changes that are expected to create new costs for migrant labor camp owners and operators. Thus, an adverse impact is indicated.

Small Businesses¹⁰ Affected:¹¹

The proposed amendments would adversely affect small businesses that own or operate migrant labor camps.

Types and Estimated Number of Small Businesses Affected

VDH reports that many migrant labor camps are owned or operated by small businesses. However, VDH does not collect business data and cannot determine how many migrant labor camps are operated by small businesses.

Costs and Other Effects

All the costs described above would apply to migrant labor camps owned or operated by a small business.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

⁸ See Code § 2.2-4007.04 (D).

⁹ 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.

¹⁰ 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.”

¹¹ See Code § 2.2-4007.04 (A.2). and Code § 2.2-4007.1 (C).

Localities¹² Affected¹³

The proposed changes are not expected to affect any locality unless a locality seeks to operate a migrant labor camp or has adopted, or seeks to adopt, a local ordinance specific to migrant labor camps. A review of Virginia H-2A job orders from Virginia Works indicates that rural localities with large farms or vineyards, and localities along the Chesapeake Bay with fishing and shellfish farming, may be more likely to have migrant labor camps.¹⁴ Data provided by VDH indicate that Albemarle, Augusta, Brunswick, Franklin, Frederick, Grayson, Halifax, Mecklenburg, Nelson, Orange, Pittsylvania, and Westmoreland counties had more than 10 migrant labor camp permittees in 2025-2026. Improved health and safety standards for migrant worker camps could benefit these localities by reducing the likelihood of adverse events, such as fires, contamination of local water bodies, the spread of vector-borne diseases, and other public health risks. Clear and updated health and safety standards could also make it easier to attract workers, both domestic and foreign, to meet the needs of local businesses.

Projected Impact on Employment

The proposed amendments may discourage the employment of migrant workers to the extent that (i) the increased costs of meeting permit standards forms a significant share of the overall labor cost for employers, and (ii) employers are able to substitute away from employing migrant workers either by employing local workers (for whom lodging would not be provided) or by becoming less reliant on labor altogether. However, the stakeholder engagement by VDH suggests that businesses that employ migrant workers rely on their labor and are more likely to incur the costs of compliance rather than reduce employment, at least in the short run.

Effects on the Use and Value of Private Property

The proposed amendments would reduce the value of private businesses that own or operate migrant labor camps by increasing the costs associated with acquiring and maintaining a permit. The proposed amendments may increase the costs of developing new migrant labor camps but would not broadly affect real estate development costs.

¹² “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.

¹³ Code § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

¹⁴ See <https://virginiaworks.gov/im-an-employer/hire/discover-agriculture-and-foreign-labor-certification/>.