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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Board for Branch Pilots
Virginia Administrative Code (VAC) citation	18 VAC45-20
Regulation title	Regulations Governing Branch Pilots
Date	January 28, 2016

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

(1) Relevant Laws

[§ 54.1-201.5](#) of the *Code of Virginia* states that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.

[§ 54.1-902](#). Regulations; suspension or revocation of license; penalty for violation.

A. The Board is authorized to promulgate regulations necessary for the proper government and regulation of pilots and to prescribe penalties for the violation of regulations in accordance with the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). Regulations may include the right to suspend or revoke the branch of any pilot. Such suspension or revocation may be in addition to any other penalty imposed by law for the violation.

The imperative form of the verb “shall” is used, making the Board's authority to regulate mandatory rather than discretionary. Executive Order 17 (2014) states, in part, "Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor."

(2) Promulgating Entity

Board for Branch Pilots.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternative has been identified. The regulations are necessary to ensure that only minimally qualified individuals operate large vessels in Virginia's waterways.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received. No informal advisory committee was formed.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulations are consistent with the criteria of Executive Order 17 (2014) in that they are necessary for the protection of the public health, safety, and welfare. They are written clearly and are easily understandable.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulations remain in effect and unchanged.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 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, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

1. The current regulations are necessary to ensure that only minimally qualified individuals operate large vessels in Virginia's waterways; this is crucial to the protection of the public health, safety, and welfare.
2. No public comments were received.
3. The regulations are not complex in nature.
4. The regulations do not overlap, duplicate, or conflict with federal or state laws or regulations.
5. The last periodic review concluded October, 2011. There were further changes to the regulations that became effective December 1, 2012.

No small business impact has been identified.