



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-111
Regulation title	Rules and Regulations Pertaining to Public and Private Animal Shelters
Action title	Proposal to repeal 2 VAC 5-110, which pertains solely to public animal pound facilities, and replace it with a new body of regulations pertaining to public and private animal shelters.
Date this document prepared	March 27, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board of Agriculture and Consumer Services currently regulates public animal pounds (as of July 1, 2014 public animal shelters) under 2 VAC 5-110. This body of regulation, which has not been substantively amended since 1985, sets standards of facility construction and animal housing intended to ensure that companion animals held in the public interest are protected from injury or illness. These regulations apply to all animals housed in the facility, including those that have satisfied or are not subject to a stray or other holding period. Private animal shelters that confine companion animals subject to a holding period are currently unregulated. This proposed regulatory action is intended to ensure that a consistent standard of confinement and care is applied to all companion animals held in the public trust.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if

applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

This action is proposed pursuant to §3.2-6501 of the Code of Virginia, which authorizes the Board of Agriculture and Consumer Services to adopt regulations consistent with the intent and objectives of the Comprehensive Animal Care laws of the Commonwealth (Chapter 65 of Title 3.2 of the Code of Virginia) pertaining to the care of animals.

Specifically, this proposed action is consistent with the intent and objectives of §3.2-6546 (concerning public animal shelters) and §3.2-6548 (concerning private animal shelters) of the Code of Virginia.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

2 VAC 5-110 has not been substantively amended since 1985. In the past 30 years there has been significant increase in the scope of activities of many public animal shelters throughout the Commonwealth. Such facilities are routinely housing companion animals beyond the statutory holding periods established for stray animals in order to promote the adoption or transfer of these animals; the current regulations can preclude the implementation of housing and enrichment practices that are considered industry-standard for the long-term housing of animals. Concurrently, private animal shelters are confining companion animals subject to holding periods on a routine basis without regulation. The agency has determined that it is in the public interest to ensure that all companion animals in shelter facilities subject to a holding period be maintained in a manner that protects them from injury, illness, and theft for this short period; while allowing public animal shelters greater freedom in their housing of animals that have satisfied holding period requirements.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The agency intends to repeal 2 VAC 5-110, the current regulations pertaining to public animal pounds, and replace them with a new body of regulations pertaining to both public and private animal shelters. The following points will be addressed in this proposed regulatory action:

- The current language concerning minimum animal housing standards and individual cage construction and size will be refined and applied to the housing of animals subject to a holding period in both public and private animal shelters in the new regulations.
- The current language concerning facility sanitation, food preparation and storage, drinking water devices, and isolation and observation will be refined and applied to both public and private animal shelters in the new regulations.
- The current language concerning water supply, waste disposal, and euthanasia will be eliminated. These topics are fully addressed in the Code of Virginia or elsewhere in the Virginia Administrative Code.

- New provisions will be put in place concerning resting platforms and bedding, biosecurity, and care of juvenile or medically compromised animal populations in both public and private animal shelters.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

The alternatives to this proposed regulatory action are to maintain 2 VAC 5-110 in its current form, or to repeal 2 VAC 5-110 and remove the agency's regulatory oversight of public animal shelters. The agency does not consider these alternatives viable; this proposed action will balance the public's continued interest in ensuring the lawful operation of both public animal and private shelters with the increasing scope of activity of these entities.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Dr. Daniel Kovich, 102 Governor Street, Richmond, VA 23219; phone: (804) 786-2483; fax: (804) 371-2380; e-mail: dan.kovich@vdacs.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website

(<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

The agency's Comprehensive Animal Care Laws Working Group will be assisting in the development of this proposed regulation. If you are interested in participating in the working group's consideration of this proposed regulation please contact Dr. Daniel Kovich, 102 Governor Street, Richmond, VA 23219; phone: (804) 786-2483; fax: (804) 371-2380; e-mail: dan.kovich@vdacs.virginia.gov. Meetings of the Comprehensive Animal Care Laws Working Group will be posted on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>).

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action will have no impact on the institution of the family or family stability.