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Periodic Review Report of Findings

Agency name	Virginia Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) citation	22VAC30-60
Regulation title	Grants to Area Agencies on Aging
Date this document prepared	March 20, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

AAA = Area Agency on Aging
ACL = U.S. Administration for Community Living
CFR = U.S. Code of Federal Regulations
DARS = Virginia Department for Aging and Rehabilitative Services
OAA = Older Americans Act
SUA = State Unit on Aging
USC = United States Code

Legal Basis

Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The Commissioner of the Virginia Department for Aging and Rehabilitative Services (DARS) has legal authority to promulgate this regulation under § 51.5-131 of the Code of Virginia. In accordance with § 51.5-135 A 6 of the Code of Virginia, DARS shall have, without limitation, the duty to “designate area agencies on aging pursuant to P.L. 89-73 or any law amendatory or supplemental thereto of the Congress of the United States and to adopt regulations for the composition and operation of such area agencies on aging.”

Further, under the Older Americans Act, as amended (OAA; 42 USC § 3001 et seq.), and the ensuing regulations, found at 45 CFR Part 1321, DARS, as Virginia’s designated State Unit on Aging (SUA), is required to develop policies governing all aspects of programs operated under the OAA and enforce those policies.

Alternatives

Please 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 alternatives to the proposed regulatory action; a periodic review of this regulation is required. The regulation prescribes requirements which AAAs shall meet to receive federal and state funds. There are no less intrusive or less costly alternatives available that will provide the force of law to protect the health, safety, and welfare of older Virginians who receive services from AAAs in the Commonwealth.

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. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

DARS did not receive any public comments.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), 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 meets the criteria set out in Executive Order 14 (2018) as it is necessary for the protection of public health, safety and welfare of the individuals in the Commonwealth. The regulation protects the health and safety of Virginians age 60 and older who qualify for and receive AAA services, which include nutrition services, care coordination, legal assistance, information and referral services, and many others. No comments have been received indicating that the regulations were not clearly written and easily understandable.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The agency recommends that the regulation be amended.

This chapter prescribes the requirements that the 25 state-designated AAAs in Virginia shall meet in order to receive state funds and federal funds in accordance with the Older Americans Act (OAA), as amended (42 USC § 3001 et seq.).

The chapter was originally promulgated in 1989 under the Virginia Department for the Aging (VDA; 22VAC5). In 2002, VDA made small amendments to the original regulations. In 2012, the entire chapter was moved (without amendments) from VDA to the newly created Virginia Department for Aging and Rehabilitative Services (DARS; 22VAC30). At that time, VDA merged with the Virginia Department of Rehabilitative Services (DRS) to form DARS. During the last periodic review for the chapter in 2012, DARS recommended the chapter be retained as is.

Since those prior actions in 2002 and 2012, the OAA was reauthorized in 2016 and the U.S. Administration for Community Living (ACL) made changes to 45 CFR Part 1321 accordingly. Further, the model of AAAs and the aging network has evolved. The current chapter requires updates in order to maintain clarity, adjust to a modernized AAA and aging network structure, and ensure consistency with the updated federal OAA requirements.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include 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, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

There is a continued need for the regulations as they are mandated by law. No complaints or comments were received during the periodic review. This regulation supplements the OAA and 45 CFR Part 1321 by providing specifics on how the Virginia SUA will administer the grants to AAAs. The regulation supports clarity and ensures consistency with aging services and the operation of AAAs. The regulation has not been significantly revised since it was originally promulgated in 1989.

There is a minimal small business impact as a result of this regulation. Of the 25 state-designated AAAs in Virginia, 11 are local government sponsored and 14 are private nonprofits, the latter of which would likely be considered small businesses. AAAs also choose to engage in varying degrees of subcontracting for some services, and it is likely that some of the subcontractors are small businesses as well. However, the chapter does not include overly burdensome requirements and reinforces common standards for business management.