

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

12 VAC 5-450 – Rules and Regulations Governing Campgrounds
Virginia Department of Health
Town Hall Action/Stage: 4554/7790
March 1, 2017

Summary of the Proposed Amendments to Regulation

Pursuant to a 2013 periodic review¹, the State Board of Health (Board) proposes to amend its Rules and Regulations Governing Campgrounds. The Board proposes to reorganize and make clarifying changes to this regulation. The Board also proposes several substantive changes which include:

1. Adding new rules for cabins and other lodging units.
2. Adding a new regulatory section for primitive campgrounds
3. Adding a new regulatory section for temporary campgrounds.
4. Restricting temporary camping permits to a total length of 14 days during a 60-day period.
5. Increasing the number of portable toilets required for temporary camping events from one portable toilet to every 100 campers to one portable toilet to every 75 campers.
6. Requiring the Virginia department of Health (VDH) Commissioner issue a decision on variance (waiver) requests within 90 days of receiving a variance (waiver) application.
7. Changing the permit renewal schedule to an annual basis.

¹ <http://townhall.virginia.gov/ViewPReview.cfm?PRid=1280>

8. Eliminating a restriction on campgrounds being located adjacent to swamps, marshes, landfills or abandoned landfills or breeding places for insect or rodents of public health importance.
9. Requiring campgrounds that use private wells to test for coliform bacteria and nitrates annually.
10. Amending the water supply requirements by prohibiting open-bin type ice machines and increasing the required distance between water and sewer connections at most individual campsites from five to ten feet.
11. Eliminating the requirement for a dump station at campgrounds where all campsites that allow self-contained camping units have direct sewer connections.
12. Requiring campgrounds to supply soap and sanitary disposal bins.
13. Requiring doors to the exterior from service buildings to be self-closing.
14. Requiring emergency preparedness planning to include the development of an emergency response plan, development of a written plan for communicating emergency response information to campers, designation of an emergency contact and the posting of contact numbers for police, fire response, and emergency medical services.

Result of Analysis

Benefits likely outweigh costs for most proposed changes. For at least one proposed change, there is insufficient information to ascertain whether benefits will outweigh costs.

Estimated Economic Impact

Many of the changes that the Board proposes for this regulation will not add any new requirements for any entity but instead are intended to reorganize rules in a more orderly, logical fashion and change regulatory language so it is more easily understood by interested parties. For instance, current regulatory language authorizes the Health Commissioner to “make such inspections as are necessary to determine satisfactory compliance with” this regulation but is silent on how frequently inspections will be done. Virginia Code § 35.1-22,² however, requires that inspections occur at least annually. The Board now proposes to add language to this regulation that specifies inspections will occur at least annually for campgrounds that are annually permitted and will occur at least once during any operational period for temporary

² <http://law.lis.virginia.gov/vacode/title35.1/chapter3/section35.1-22/>

campgrounds. Changes such as these do not cause any change in practice so no affected entity is likely to incur any additional costs. To the extent that these changes better detail what is required of regulated entities, interested parties will benefit from the additional clarity they bring to the regulation. Benefits outweigh costs for all such changes.

Current regulation does not have any statewide rules for cabins and other lodging units that are part of permitted campgrounds. As a consequence, different localities are regulating these facilities differently. Some localities are requiring that cabins and other lodging units be permitted as hotel rooms while other localities are just inspecting these units under general rules that address issues of cleanliness and vermin and insect control. To address this enforcement disparity, and to eliminate the need for cabins in some localities to be permitted as hotel rooms, the Board now proposes to add rules for cabins and other rental units to this regulation.

These proposed rules will require that fixtures, equipment and furnishings in “all cabins, yurts and other camping units” offered for rent be clean, in good repair, free of vermin and maintained so as to protect the health and safety of people who use such facilities. The Board does not propose to require that cabins and other rental units provide dishes, pots and pans, mattresses, bedding or other linens. If such amenities are provided, however, they must be maintained in a clean in sanitary condition. If the campgrounds do not provide cleaning services that wash dishes, glassware, silverware and cooking implements between occupants, there must be a sign posted that notifies campers that kitchen items are not washed under management supervision.

The proposed rules for cabins and other rental units do not impose any new requirements on campgrounds since such cabins would already be required to be kept clean, in good repair and vermin free. Campgrounds that are in localities that currently impose hotel room requirements on cabins and other rental units, however, may see some fairly large cost savings from these proposed regulations. They could choose, for instance, to not provide linens or bedding in their cabins and rental units. This would save them both the costs of those linens and bedding and the laundering and housekeeping costs associated with keeping linens and bedding clean and in good repair.³

³ Board staff estimates that such costs may include \$12-\$24 per sheet set, \$3-\$13 per pillow case, \$100-\$2,500 per mattress, \$50-\$200 per box spring, \$6 per towel, \$300-\$1,300 per washer and \$350-\$1,200 per dryer. Cost would also include the time spent by campground staff in cleaning and maintenance activities. All of these costs are

Current regulation has a definition for primitive camps (primitive campsites)⁴ and exempts such camps (campsites) from regulatory requirements for lavatories and showers. The Board now proposes to add specific rules for primitive campgrounds that also exempt primitive campsites from requirements that individual campsites be marked and that exempt primitive campgrounds with 10 or fewer campsites from having to provide potable water and from normal garbage and refuse disposal requirements (so long as there is signage clearly posted that informs campers that there is no potable water at the campgrounds and signage that informs campers that they are expected to remove their own garbage from the campgrounds). These changes will make rules for primitive campgrounds less strict. These proposed changes will likely lower costs for some primitive campgrounds and may provide an aesthetic benefit for campers who prefer to camp with fewer to no amenities.

Current regulation does not have specific provision for events like music festivals, Civil War reenactments, scout jamborees and other short duration programs that may want to allow camping during the event but would have difficulty meeting campground regulation requirements that, for instance, require permanent bathroom structures or a permanent water supply. Currently, event organizers apply to the VDH Commissioner for a waiver (i.e., a variance from current regulation). The Board now proposes to promulgate current waiver standards for temporary camping into regulation and require the Commissioner to issue a decision on waiver requests within 90 days of application receipt. The Board proposes to restrict the duration of temporary camping permits to 14 days within any 60 day period and proposes to change the number of required portable toilets from one for every 100 campers (event attendants) to one for every 75 campers (event attendants). Most of these proposed changes do not represent a change in practice but are only intended to reduce the number of waivers that are processed and issued each year and provide greater clarity and certainty for event organizers who currently must seek waivers. The Board's proposal to decrease the number of campers per required portable toilet will likely increase costs for larger events. The cost of renting additional portable

imposed by hotel room requirements but may be avoided under new rules for cabins and other rental units contained in this proposed regulation.

⁴ Campsites that generally do not have water-flushed toilets, showers, sinks or electrical connections are primitive campsites.

toilets will likely be between \$75 and \$100 per toilet. The benefits of these proposed rules for temporary campgrounds likely outweigh the costs.

Currently, all Board issued campground permits expire on December 31st of each year. This means that some permits issued during any given year may be valid for a far shorter time period than a year. The Board now proposes to have permits expire one year after they are issued. This change will benefit campgrounds as it may allow them to avoid having to pay for two annual permits in the same year. This change may also benefit Board staff by allowing them to spread out the workload of approving permits over the year rather than having to process them all at once.

Current regulation prohibits campgrounds from being located in, or adjacent to, swamps, marshes, landfills or abandoned landfills or breeding places for insect or rodents of public health importance. The Board proposes to change this prohibition to remove the “adjacent to” language. Bugs and rodents of all sorts breed in the wild, including in woods and forests near campgrounds. As a practical matter, it is impossible for campgrounds not to be adjacent to breeding places for insects and rodents. Additionally, the Board does not think it is necessary to restrict campgrounds from being adjacent to swamps, marshes or landfills in order to protect public health and safety. This change will benefit owners of campgrounds as it will allow them greater freedom as to where they locate their facilities.

Current regulation only requires private wells to be tested for coliform bacteria when the well is dug. The Board proposes to require campgrounds that use private wells to test those wells annually for both coliform bacteria and nitrates. Board staff reports that these tests will cost between \$15 and \$60 per test, per well, per year. These costs would need to be weighed against any benefit that might accrue to campers from not being exposed to bacteria and nitrates in campground drinking water. There is insufficient information to ascertain whether benefits will outweigh costs for this change.

The Board also proposes to change campground water requirements to prohibit open-bin type ice machines and to require that water and sewer connections at new campsites be located 10 feet apart rather than the currently required five feet. Campsites that were permitted on or before the effective date of this proposed regulation will be exempt from the changing footage requirement between water and sewer connections unless they conduct construction or

renovation that would impact those connections. Board staff reports that larger camps already have to meet the 10 feet requirement that is also in regulations for the Office of Drinking Water (ODW).⁵ Board staff reports that all other currently permitted campgrounds would be exempt from this requirement unless they are doing renovations that include the water and sewer connections. Board staff reports that campgrounds that are undergoing such renovations would likely incur additional costs of several hundred to \$1,000 for moving either the water or the sewer connection so that water and sewer connections are 10 feet apart. Some campgrounds might also incur costs for replacing open-bin type ice machines or modifying them so that they can be closed. These costs would need to be weighed against any benefit that might accrue to campers from not being exposed to bacteria contaminated ice or drinking water. There is insufficient information to ascertain whether benefits will outweigh costs for this change.

Current regulation requires all campgrounds to have dump stations.⁶ The Board proposes to exempt campgrounds whose campsites all have direct sewer connections for self-contained camping units (RVs or campers) from also having to have a dump station. This change will not adversely impact any entities as direct sewer connections are at least as protective of public health and safety as dump stations are. Owners of affected campgrounds would likely save between \$5,000 and \$25,000 on account of not having to install a dump station at qualifying campgrounds.

Current regulation does not require campgrounds to have sanitary disposal bins in women's bathrooms or soap in any bathrooms. The Board proposes to require both of these items. Board staff reports that the Board has not specified the type of soap that campgrounds must provide so campgrounds will have flexibility to use whatever type of soap they choose. Board staff also reports that bar soap can cost between \$0.40 to \$0.50 per bar and that wall mounted soap dispensers can cost between \$9 and \$30 (and \$12 per gallon for liquid soap to fill dispensers). Board staff did not have an estimate for what sanitary disposal bins might cost but that cost is likely minimal. These changes will provide the benefit of convenience for campers

⁵ ODW rules apply to any campground that "serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year".

⁶ Dump stations are a facility specifically designed to receive sewage and grey water from portable toilets and holding tanks in RVs and campers. Dump stations do not include lavatories or restrooms.

and may also impede the spread of diseases that can be spread by fecal matter on unwashed hands.

The Board also proposes to newly require the exterior doors of service buildings to be self-closing to prevent animals and insects from having unimpeded access to such buildings. Board staff reports that the costs of meeting this requirement could be as little as a few cents for a spring that will swing a door shut after it is opened.

Current regulation does not require that campgrounds have an emergency response plan for natural disasters or other emergencies. In response to a tornado emergency that resulted in deaths at a campground, the Board now proposes to require campgrounds to engage in emergency preparedness planning to include the development of an emergency response plan, designation of an emergency contact, development of a written plan for communicating emergency response information to campers and the posting of contact numbers for police, fire response, and emergency medical services. Owners of campgrounds will incur time costs for developing required emergency plans as well as printing costs for required written plans as well as for printing off emergency numbers to post on account of this proposed change. Campers may greatly benefit from this requirement as it may allow them to find out about impending or ongoing emergencies in time to minimize the impact of those emergencies.

Businesses and Entities Affected

These proposed regulatory changes will affect all permitted campgrounds located in the Commonwealth as well as any time limited festivals, events or jamborees that might seek permits as temporary camping sites. Board staff reports there are 370 campgrounds currently permitted in Virginia. Of these, 27 are located in state parks and 13 are owned by the KOA Corporation. The remainder (330) are owned and operated by small businesses.

Localities Particularly Affected

No locality will be particularly affected by these proposed regulatory changes.

Projected Impact on Employment

These proposed regulatory changes are unlikely to significantly affect employment in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

Small Businesses:

Definition

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.”

Costs and Other Effects

Affected small businesses will likely incur costs for well water testing, providing soap and sanitary disposal bins and for time spent on formulating and writing emergency response plans. Affected small businesses will also likely incur costs for replacing or repairing open-bin type ice machines and for modifying exterior doors for service buildings so that they are self-closing. Affected small businesses may incur costs for moving sewer or water connections if they initiate renovations that affect those connections at some point in the future.

Alternative Method that Minimizes Adverse Impact

There are likely no alternative methods that would both meet the Board’s aims and further minimize costs.

Adverse Impacts:

Businesses:

Affected businesses will likely incur costs for well water testing, providing soap and sanitary disposal bins and for time spent on formulating and writing emergency response plans. Affected businesses will also likely incur costs for replacing or repairing open-bin type ice machines and for modifying exterior doors for service buildings so that they are self-closing. Affected businesses may incur costs for moving sewer or water

connections if they initiate renovations that affect those connections at some point in the future.

Localities:

No localities are likely to incur costs on account of these proposed regulatory changes.

Other Entities:

These proposed regulatory changes are unlikely to adversely affect other entities in the Commonwealth.

Legal Mandates

General: The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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