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Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC5-501
VAC Chapter title(s)	Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps
Action title	Amend Regulations as a Result of 2022 Periodic Review
Date this document prepared	12/1/2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The current Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (12VAC5-501) contain basic requirements for compliance with federal standards, trash and garbage collection, water supplies, sewage and solid waste disposal, and storage of hazardous materials. This regulatory action is a comprehensive update of the Regulations, including the restructuring and updating of regulatory content for health and safety, clarity, style and formatting, and ease of understanding.

The comprehensive update and amendment includes the addition of sections related to migrant labor camp operations including general sanitation and maintenance requirements, provisions for heating and cooling, food handling, safety and health, and the reporting of communicable disease. Many of the changes refine and provide further clarity to existing regulations, including general administrative provisions (definitions, variances, and permitting), inspections and enforcement, and references to federal

standards and exemptions, water supplies, sewage disposal, trash and garbage, storage of hazardous materials, and compliance with building and fire codes.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"CFR" means Code of Federal Regulations.

"DOLI" means the Virginia Department of Labor and Industry.

"H-2A" means the federal "Nonimmigrant Classification for a Temporary Worker" engaged in temporary or seasonal agricultural work.

"OSHA" means the Occupational Safety and Health Administration.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

This action derives from a 2022 periodic review of this chapter and a subsequent Notice of Intended Regulatory Action published on December 16, 2024.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating agency is the State Board of Health.

Section 32.1-12 of the Code of Virginia authorizes the Board to make, adopt, promulgate, and enforce the Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps. Chapter 6, Article 6 of Title 32.1 of the Code of Virginia enumerates the legal authority for VDH to regulate migrant labor camps.

Section 32.1-211 of the Code of Virginia outlines the Board of Health's authority to adopt regulations governing migrant labor camps, including the adoption of outlined safety standards necessary to protect the health of migrant workers that supplement the occupational safety and health regulations adopted by the Safety and Health Codes Board pursuant to §40.1-22.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

- 1) The purpose of this action is to amend the Regulations to update and clarify the requirements for migrant labor camp design, operation, maintenance, and safety. The proposed amendments provide the requirements necessary for migrant labor camp owners to protect the health, safety, and welfare of migrant workers by providing clear, consistent, and protective regulatory standards.
- 2) The Board of Health promulgated the Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (12VAC5-500) in or before 1950 and amended the Regulations effective November 1, 1980. Effective January 1, 2006, the Regulations (12VAC-500) were repealed and replaced by the Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (12VAC5-501). Over the past 19 years, industry and migrant labor camp operations have evolved. Inconsistencies in migrant labor camp operations throughout the Commonwealth and variable interpretations of compliance with state and federal standards support the need for updated statewide regulations for health and safety at migrant labor camps.

§ 32.1-211 of the Code of Virginia outlines the minimal content of the regulations governing migrant labor camps. The Regulations as written do not meet all the Code requirements, including provisions that clearly define and outline the requirements to meet and maintain:

- a) the sites of camps,
 - b) the provision of an adequate and convenient supply of pure water as defined in § 32.1-167,
 - c) the disposal of sewage as defined in § 32.1-163,
 - d) the storage and disposal of solid waste,
 - e) the maintenance of the campgrounds, and
 - f) the construction, maintenance, alteration or remodeling of buildings and structures for the housing of migrant workers and their families, including wash and bathrooms, central cooking facilities, central dining rooms, sleeping quarters, assembly rooms, lighting and ventilation.
- 3) The VDH Office of Environmental Health Services and a stakeholder workgroup of over 50 industry representatives collectively drafted, edited, and recommended the proposed amendments to the Regulations. As part of the agency's efforts to clarify and improve the readability and understanding of the Regulations, the amendments address the establishment and consistent use of defined terms and the style and formatting of regulatory content. The goal of the amendments is to collectively establish up-to-date basic health and safety standards for migrant labor camps and to address any vague or missing health and safety content outlined in federal standards adopted as part of the Regulation. In addition, the effort seeks to amend and clarify the vague regulatory language and content that contributes to inconsistencies in interpretation and the enforcement of the Regulation across the Commonwealth.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The proposed amendments reorganize the way information is provided; add new sections to clarify existing provisions or incorporate new provisions; delete sections in whole to remove obsolete or duplicative information; revise references or citations; and correct sentence structure, grammar, spelling, and typographical errors. VDH reviewed and revised technical terms and word use to improve consistency throughout the Regulations. Substantive changes include:

- 1) adding definitions,
- 2) repealing or amending sections on enforcement requirements consistent with the Virginia Administrative Process Act and Title 32.1 of the Code of Virginia,
- 3) revising a section to clarify variance requirements,
- 4) revising sections to clarify plan review, permit, and inspection requirements,
- 5) revising sections to clarify federal standards and exemptions,
- 6) revising sections to clarify the requirements for solid waste, water supplies, sewage disposal, storage of hazardous materials, and compliance with building code,
- 7) adding a section on housing and sleeping facilities,
- 8) adding a section on general sanitation and maintenance,
- 9) adding a section on heating and cooling,
- 10) adding a section on storage, handling, and preparation of food,
- 11) adding a section on insects, rodents, and weed control,
- 12) adding a section on safety and first aid, and
- 13) adding a section on communicable disease.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

- 1) Primary advantages to the public, including private citizens and foreign agricultural workers hired by Virginia businesses, include improved health and safety protections for migrant workers. Improved protections will come from updated requirements for migrant labor camps that align with current industry and public health and safety standards. Private citizens and foreign agricultural workers who temporarily reside at migrant labor camps will be able to reference up-to-date health and safety regulations that are easy to read and understand. Businesses will also be able to increase health and safety protections through updated standards that are well defined, easy to read and understand, consistently implemented across the state, and in alignment with current industry standards and expectations.

There are no primary disadvantages to the public, including private citizens and foreign agricultural workers. Potential primary disadvantages to businesses may include a minimal additional cost to update or maintain migrant labor camp operations to meet the amended standards.

- 2) Primary advantages to the agency include regulations that outline processes and expectations that will create statewide consistency in regulating VDH permitted establishments. The amendment of definitions will improve understanding and application of terms during inspections and enforcement. The administrative and operational amendments will provide regulations that

are easy to read and understand. The amendments remove vague and outdated standards and will align with up-to-date public health standards for water supply, sewage disposal, general sanitation and maintenance, food handling, and safety. The amendments will reduce inconsistencies in interpretation during inspection and enforcement of migrant labor camps and will facilitate improved communication and alignment with other state and federal agencies that oversee aspects of migrant labor operations.

There are no primary disadvantages to the agency.

Other pertinent matters of interest to the regulated community, government officials, and the public include the fact that the Regulations have not been revised or amended in 20 years. Failure to update state standards for the operations of migrant labor camps would indicate that the agency and the Commonwealth support the use of outdated regulations that do not meet the basic and minimal health and safety provisions that are consistent with current industry standards and the Code of Virginia.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

The VDH Office of Environmental Health Services and a stakeholder workgroup of over 50 industry representatives collectively drafted, edited, and recommended the proposed amendments to the Regulations, including content that may exceed federal requirements.

Sections 12VAC5-501-10 through 12VAC5-501-280 of the Regulations contain administrative procedures and are only applicable to state operations.

Sections 12VAC5-501-290 through 12VAC5-501-420 include “standards” for migrant labor camps and may be compared to federal standards.

- 12VAC5-501-290 *Primary source of standards* and 12VAC5-501-300 *Exception to occupational safety and health standards* explain the applicability of federal standards to the chapter.
- 12VAC5-501-310 *Solid waste* is not more restrictive than federal standards (29 CFR 1910.142(h); 20 CFR Part 654.414.). Rather, the section provides minimal storage and disposal requirements that align with federal standards or clarify requirements where federal standards do not specify an implied requirement. For example, where ETA standards require garbage containers to be “in good condition”, OSHA standards do not require containers to be “in good condition” but rather state that garbage containers be “approved by the appropriate health authority.”
- 12VAC5-501-320 *Requirements for water supplies* and 12VAC5-501-330 *Requirements of sewage disposal*, are not more restrictive than federal standards. Both ETA and OSHA standards defer to the local health authority for approval of the water supply and sewage disposal. The sections are not more restrictive than federal standards as federal standards require local approval for water (29 CFR 1910.142(c); 20 CFR Part 654.405) and sewage (29 CFR 1910.142(e); 20 CFR Part 654.406).
- 12VAC5-501-340 *Storage of hazardous materials* outlines storage and handling requirements for pesticides, toxic chemicals, and other hazardous materials. ETA standards (20 CFR Part 654.417(h) and (i)) require separation of agricultural pesticides, toxic chemicals, and flammable or volatile liquids or materials from housing areas and sleeping quarters. OSHA standards do not prescribe any hazardous material storage requirements. The amended section provides

health and safety provisions that protect workers where they sleep and eat, where federal standards are vague or non-existent.

- 12VAC5-501-350 *Compliance with Uniform Statewide Building Code, Statewide Fire Prevention Code and local requirements* states that newly constructed camps be constructed in accordance with the building code and be maintained in accordance with the fire code, if it is applicable to the structure. As the applicable building and fire codes are state specific, and as ETA and OSHA standards (29 CFR 1910.142(b)(11) and 29CFR 1910.142(i)(2); 20 CFR Part 654.413(c), 654.417(a) and (e)) refer to compliance with local code, this section is not more restrictive than federal standards.
- 12VAC5-501-360 *Housing and sleeping facilities* subsections A through E are not more restrictive than federal standards. Rather, the sections provide clarity of expectations where federal standards are vague or non-existent (29 CFR 1910.142(b); 20 CFR Part 654.407, 654.408, 654.416). For example, proposed subsection B requires that “a bed or cot in good repair shall be provided for each occupant,” where ETA standards require beds be “comfortable and clean,” and OSHA standards require beds be “provided.” It is expected that federal standards of “comfortable, clean, and provided” means that, per the proposed section, “a bed or cot in good repair shall be provided for each occupant.”
- 12VAC5-501-360 *Housing and sleeping facilities* subsection F may be considered more restrictive than federal standards. Subsection F proposes that “smoke detectors and fire extinguishers shall be provided in all migrant labor camp structures and shall be functional and serviced as appropriate.” 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 fire extinguisher requirements. The requirement to provide a functional fire extinguisher in all structures of the migrant labor camp supports the protection of life and safety of workers in the event of a fire.
- 12VAC5-501-370. *General sanitation and maintenance* is not more restrictive than federal standards. The proposed section clearly states that the migrant labor camp be kept clean, in good repair, and maintained to protect the health, safety, and well-being of workers using those facilities. If a federal standard does not explicitly require that a component of the migrant labor camp be kept clean or in good repair, it is considered an oversight of an assumed requirement; the proposed section clarifies the requirement where federal standards do not clearly iterate basic maintenance and cleanliness requirements.
- 12VAC5-501-380 *Heating and cooling* subsections A and D are not more restrictive than federal standards. Rather, where federal standards lack clear and consistent requirements for heating specifications (29 CFR 1910.142(b)(11), 1910.142(f)(4); 20 CFR Part 654.409(a), (b) and (d)), the subsections propose the requirement. Subsections B and C may be considered more restrictive than federal standards. Federal standards lack any cooling provisions for migrant labor camps, where the proposed section content proposes standards for cooling.
- 12VAC5-501-380 subsection A proposes that “all living quarters and service rooms or buildings shall be provided with operable heating equipment if during the period of occupancy the outdoor temperature falls below 68°F.” ETA standards require heating be provided when temperatures are at 68°F or less, whereas OSHA standards state that heating is required if the camp is used in “cold weather”; OSHA does not describe or define “cold weather.” ETA requires heating equipment that is capable of maintaining an indoor temperature of 68°F or more, whereas OSHA requires heating equipment capable of maintaining a temperature of at least 70°F in service buildings, specifically; it is expected that this heating temperature expectation (of 70°F) translates to indoor temperatures for “shelters” as well, as they are required to be heated if used during cold weather. Per OSHA, even if a camp was mobile or provided in tents or vehicles, a “service building” must be heated accordingly. Therefore, heating to at least 70°F in living and sleeping quarters is considered applicable. This subsection also proposes “cold weather” as 68°F or less but does not prescribe the minimum heating temperature required as ETA and OSHA address the requirement with specific yet differing temperatures.

- 12VAC5-501-380 subsection B proposes 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.” Neither ETA nor OSHA standards prescribe a method to reduce radiant heat. Window shades or other provisions to reduce radiant heat may aid in keeping living and sleeping facilities cooler during hot weather.
- 12VAC5-501-380 subsection C proposes that “all 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.” Neither ETA nor OSHA standards prescribe a method to reduce heat within migrant labor housing. Several Virginia regulations require inside maximum temperatures between 80-85°F for occupants who cannot relocate or leave provided housing (Chapter 61. Standards and Regulations for Licensed Adult Day Centers (22VAC40-61-430), Chapter 73. Standards for Licensed Assisted Living Facilities (22VAC40-73-880), and Chapter 81. Standards for Planning, Design, Construction, and Reimbursement of Local Correctional Facilities (6VAC15-81-720)). Per the Virginia Department of Emergency Management, extreme heat often results in the highest number of annual deaths among all weather-related hazards. Extreme heat is defined as a period of high heat and humidity with temperatures above 90°F for at least two to three days. In extreme heat, evaporation is slowed, and the body must work extra hard to maintain a normal temperature (<https://www.vaemergency.gov/threats/extreme-heat>). Many migrant workers are exposed to high temperatures or extreme heat during the work-day. Most federal and state guidance on avoiding heat-related illness includes temporarily relocating to an area with air conditioning. As migrant workers may not have the ability to travel to air-conditioned areas, the provision of cooling equipment in sleeping areas during times of extreme heat will help support the health, safety, and well-being of migrant workers (<https://www.ready.gov/heat>; <https://www.cdc.gov/heat-health/about/index.html>).
- 12VAC5-501-380 subsection D proposes that “all heating and cooling units and equipment shall be installed and used in accordance with manufacturer specifications.” While neither ETA nor OSHA standards state that equipment be installed or used in accordance with manufacturer specifications, it is expected that this requirement is assumed. The proposed section clarifies that the installation and use of equipment be in accordance with manufacturer specifications; this requirement will help ensure equipment is used safely and as intended.
- 12VAC5-501-390 *Storage, handling, and preparation of food* is not more restrictive than federal standards (29 CFR 1910.142(b)(10) and (11), 1910.142(i)(1), (2), and (3); 20 CFR Part 654.413(a), (b), (c) and (d)). The proposed section clarifies the requirement for food storage, handling, and preparation where federal standards do not clearly iterate basic cooking and eating area requirements.
- 12VAC5-501-390 subsection A proposes a VDH food permit be required in the event the camp owner prepares and serves food or contracts the preparation and service of food to workers. It may be noted that federal OSHA standards reference the “Food Service Sanitation Ordinance and Code,” Part V of the “Food Service Sanitation Manual,” U.S. Public Health Service Publication 934 (1965). This manual provides outdated food storage and handling provisions; Food handling science and safety has significantly evolved since 1965. Provisions in the manual may be harmful to human health.
- 12VAC5-501-390 subsection B outlines the basic requirements for cooking and eating areas, including refrigeration, a cooking surface such as a stove or hot plate, a sink with hot and cold running water, food storage and preparation areas, an eating area, and light. Most of the provisions proposed align with ETA standards as food storage and preparation standards are completely absent from OSHA standards. The absence of food storage and preparation requirements in OSHA standards creates confusion on what is acceptable for migrant labor camps subject to OSHA standards.

- 12VAC-501-390 subsection C proposes that surfaces within and near cooking and eating areas be cleanable and in good repair. Federal standards do not explicitly or consistently state that food storage and preparation areas shall be easily cleanable and in good repair.
- 12VAC5-501-390 subsection D proposes that cooking areas be ventilated in accordance with the applicable building code. Federal standards do not explicitly or consistently state that kitchens shall be ventilated. This subsection proposes that ventilation be considered as adequate ventilation aids in maintaining clean air and surfaces, and aids in fire prevention.
- 12VAC5-501-390 subsection E proposes that fire extinguishers be provided in cooking areas and be accessible. 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. The requirement to provide a functional fire extinguisher in cooking areas supports the protection of life and safety of workers in the event of a fire.
- 12VAC5-501-400 *Insects, rodents, and weed control* is not more stringent than federal standards (29 CFR 1910.142(j); 20 CFR Part 654.404(c) and 654.415). Where federal standards lack clear and consistent requirements for vegetation and pest controls, this section proposes the requirement. ETA identifies that housing and facilities be free from noxious plants and uncontrolled weeds or brush, whereas OSHA does not. ETA requires housing and facilities be free of insects, rodents and other vermin, whereas OSHA does not. However, as it may be impossible to ensure a facility is completely free of any insect, it may be expected that it is intended that a facility be “free from infestation;” OSHA requires effective measures be taken to prevent infestation of animals, insects, or pests, whereas ETA does not require such action. This section proposes consistent application to the prevention of uncontrolled vegetation and infestation of pests.
- 12VAC5-501-410 *Safety and first aid* subsection A is not more stringent than federal standards (29 CFR 1910.142(k); 20 CFR Part 654.417(g)) as such standards require first aid kits. Subsections B and C may be considered more stringent than federal standards as they require a migrant labor camp owner to develop an emergency response plan and to post emergency contact phone numbers in a central location accessible to workers. The development of an emergency response plan and posting emergency contacts is considered an essential first step to planning for an emergency and the safety of occupants of camps.
- 12VAC5-501-420 *Communicable disease* is not more stringent than federal standards (29 CFR 1910.142(l)). While the requirement to report communicable disease is not outlined in ETA standards, it is reported that in the absence of a standard in ETA, ETA facilities comply with the applicable OSHA standard. In Virginia, Chapter 90. Regulations for Disease Reporting and Control., requires persons in charge of a facility licensed by any agency of the Commonwealth to report the presence or suspected presence in his facility of persons who have common symptoms suggesting an outbreak situation. This section applies to owners and operators of permitted migrant labor camps.

Virginia Code sections § § 32.1-203 and 211 authorizes the State Board of Health to adopt regulations applicable to migrant labor camps. Virginia Code section § 32.1-211(A) requires the Safety and Health Codes Board to adopt regulations that are no more stringent than those actually enforced by the United States Department of Labor. Virginia Code section § 32.1-211(B) goes on to give the State Board of Health additional authority to issue regulations that are more restrictive than those enforced by the Department of Labor provided that those regulations are necessary to protect the health of migrant workers. The aforementioned regulations are more stringent than the applicable federal standards, but they are necessary to protect the health of migrant workers in the Commonwealth, thereby meeting the requirements of Virginia Code section § 32.1-211.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

Other state agencies that will be particularly affected by the regulatory change include:

- 1) The Department of Workforce Development and Advancement (Virginia Works), and
- 2) The Virginia Department of Labor and Industry (DOLI).

The Virginia Works Agriculture and Foreign Labor Certification Program assists employers with finding the right workforce to fill their labor needs, often through the [H-2A temporary agricultural program](#). The H-2A program allows agricultural employers to bring nonimmigrant foreign workers into the country to perform agricultural labor on a seasonal basis ([Virginia Works 2025](#)). The approval of foreign job orders by Virginia Works requires that a migrant labor camp be in compliance with applicable federal standards and be permitted by VDH in accordance with the Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (12VAC5-501).

The DOLI administers the programs for Virginia Occupational Safety and Health and Labor and Employment Law ([DOLI 2025](#)). As the Regulations are intended to supplement the occupational, safety and health regulations of the Safety and Health Codes Board applicable to migrant labor camps, camp compliance with state Regulations may influence DOLI investigations and enforcement, if applicable.

Localities Particularly Affected

There are no localities particularly affected by the regulatory change.

Other Entities Particularly Affected

There are no other entities particularly affected by the regulatory change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources. 	<p>There are no projected costs for the agency resulting from the regulatory change. There are no permit or plan review fees associated with migrant labor camps. The proposed changes provide clarity and consistency of application of the regulations and do not propose significant changes that would monetarily impact the agency.</p>
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<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no projected costs, savings, fees, or revenues predicted for other state agencies related to or resulting from the regulatory change.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>For all agencies, the regulatory change will produce a benefit of statewide consistency in regulating migrant labor camps through improved understanding and application of regulation. The updated regulations align with up-to-date public health and industry standards and improve public health and safety protections specific to migrant workers.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>Local partners or associations such as the Virginia Agribusiness Council, Virginia Farm Bureau or similar entities may be affected by this action in regard to notification and support of their constituents. Local and tribal governments, school divisions, or other authorities are likely not affected by this action, unless they implement a local ordinance or other code specific to migrant labor camps, or if they operate a migrant labor camp.</p> <p>There are no monetizable direct or indirect costs or benefits to localities or local partners.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>Potential indirect benefits to local partners associated with the proposed amendments may include improved public health and safety protections for migrant labor camps. The modernization of regulations could improve business and public perception of the agency and the Commonwealth's migrant labor camps through the provision of a consistently implemented regulation that increases public health protection for migrant workers.</p>

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Entities affected by this change may include migrant labor camp owners and operators who operate a camp in Virginia. In addition, migrant workers and their families that reside in migrant labor camps may also be impacted by the proposed regulatory change.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate</p>	<p>The number of migrant labor camps permitted each year varies. In 2025, there were 372</p>

<p>of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <p>a) is independently owned and operated, and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>migrant labor camps permits issued in Virginia. Many migrant labor camps are owned and operated by small businesses. As VDH does not collect business data, it cannot be determined how many migrant labor camps are operated by small businesses.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</p> <p>c) fees;</p> <p>d) purchases of equipment or services; and</p> <p>e) time required to comply with the requirements.</p>	<p>a) Projected costs related to reporting, record keeping, or other administrative costs required for compliance may include the cost of printing plans or specifications for the submittal of a plan review to the local health department (if plans or specifications are not submitted electronically), and/or the cost of printing a permit to post in the office or on the premises of a camp. The cost of printing plans and permits is considered negligible.</p> <p>b) Projected costs related to the development or management of real estate for operating a camp include the proposed requirement for a migrant labor camp to test for total coliforms and nitrate-nitrogen prior to permit issuance and at least annually thereafter. One sample per year per constituent will be required and will incur an estimated cost of approximately \$52 for one coliform sample and approximately \$56 for one nitrate-nitrogen sample, for an estimated total of \$108 each year.</p> <p>c) There are no fees associated with a migrant labor camp permit application or plan review or other administrative requirement.</p> <p>d) Projected cost of purchases of equipment or services:</p> <ul style="list-style-type: none"> • The proposed storage area marking requirement may incur a cost to print a sign in the primary and secondary language of the housing occupants. As a sign is already required in accordance with current regulation, one additional sign may be required. Such signs may be printed on a piece of paper or may be custom-made. The cost of providing written notification on a piece of paper is negligible, whereas a custom-made sign may incur an estimated average cost of approximately \$16 per sign. • The proposed requirement to provide smoke detectors and fire extinguishers in all structures may incur a cost. The estimated cost of providing a smoke detector is approximately \$17.31 per detector. The estimated cost of providing a fire extinguisher is approximately \$34.14 per extinguisher.

	<ul style="list-style-type: none"> • The proposed requirement to provide cooling equipment, that may include fans, air conditioners, central air, geothermal systems, evaporative coolers, ventilation, or other methods of cooling may incur a cost. While cooling equipment options are at the discretion of the camp owner, it may be considered that fans or window air-conditioners may be the most familiar and likely cooling methods employed. The estimated cost of providing a window fan is approximately \$55.32 per fan. The estimated cost of providing a window air-conditioner is approximately \$196 per unit. • The requirement to provide fire extinguishers in kitchen areas may incur an estimated cost of approximately \$34.14 per extinguisher. • The proposed requirement to provide first aid supplies within the camp may incur an estimated cost of approximately \$54.04 per kit. <p>e) There are no anticipated costs associated with the time required to comply with the requirements.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p><u>Overall</u></p> <p>Providing comprehensive, consistent, and up-to-date standards will provide the industry and the public with improved and comprehensive health and safety protections at migrant labor camps.</p> <p><u>Definitions and Administrative.</u></p> <p>Amended sections for definitions and administrative content will provide improved understanding and application of the regulations. Definitions for terms and acronyms will enhance reader understanding and provide consistency throughout the regulation.</p> <p><u>Plan Review and Permits.</u></p> <p>Amended sections for plan review and permitting will provide improved understanding of the plan review and permitting process. The plan review process will assist camp owners in designing and constructing a camp that aligns with both state and federal requirements. As federal standards may not align with the building code, not providing a regulatory structure to the plan review</p>

	<p>process may result in a migrant labor camp being built out of compliance with federal or state standards, thus resulting in delays in permitting and costly/timely retrofitting of structures to meet federal requirements.</p> <p><u>Inspection and Enforcement.</u></p> <p>Amended sections specific to inspection and enforcement provide an improved understanding and application of the regulation and clarity to the inspection and enforcement processes, as well as opportunities for appeal.</p> <p><u>Federal standards.</u></p> <p>The amended sections specific to federal standards provide an improved understanding of which standards apply to specific migrant labor camps. While the Regulations pursuant to § 32.1-211 are intended to supplement the Virginia Occupational Safety and Health (VOSH) Federal Identical General Industry Standards (16VAC25-90-1910), federal housing standards must be met for an owner or operator to operate a migrant labor camp. The section language makes it clear that compliance with the VOSH standards (OSHA or ETA) is required by the Regulations.</p> <p><u>Water supply.</u></p> <p>The proposed section improves understanding and application of the regulation and provides for improved protection of migrant workers in relation to camp water supply and distribution. Testing a water supply is the best way to ensure that drinking water is safe from harmful chemicals and bacteria. Testing for bacteria provides protection against acute gastrointestinal illness, while testing for nitrates can prevent health problems. In agricultural settings, testing for nitrates may act as an indicator for other contamination sources, such as improperly handled livestock manures, intensive livestock production facilities, excessive or inappropriate fertilizer applications, or failing septic systems.</p> <p><u>Sewage disposal.</u></p> <p>The proposed section improves understanding and application of the regulation and provides for protection of migrant workers and the environment in relation to camp sewage disposal.</p> <p><u>Hazardous materials storage.</u></p>
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	<p>The proposed section provides a minimal requirement for chemical and hazardous material storage and handling that increases protection for migrant worker health and safety.</p> <p><u>General sanitation and facility maintenance.</u></p> <p>The proposed sections provide improved protection of and provisions for migrant labor camps and occupants in relation to solid waste handling, disposal, and management, facility buildings and grounds management and maintenance, and pest control.</p> <p><u>Housing facilities.</u></p> <p>The proposed section provides minimal requirements for migrant labor camp structures and sleeping quarters that increase protection for migrant worker health and safety.</p> <p><u>Heating and cooling.</u></p> <p>The proposed section provides indoor temperature requirements for migrant labor camp structures and sleeping quarters that provide occupants protection against the elements and reduced exposure to extreme temperatures. Maintaining safe indoor temperatures may help prevent heat-related illness and may improve worker well-being and productivity.</p> <p><u>Storage, handling, and preparation of food.</u></p> <p>The proposed section improves protection of migrant labor camp occupants in relation food storage and preparation and eating areas that can help ensure the provision of adequate facilities and may reduce the potential for foodborne illness.</p> <p><u>Safety and first aid.</u></p> <p>The sections provide a minimal standard that aims to protect migrant workers' health, safety, and welfare as it relates to access to first aid supplies while residing at a migrant labor camp. Providing a minimal requirement for emergency planning and response at a migrant labor camp increases protection for worker health and safety.</p>
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Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The no-action alternative to revising the Regulations would allow migrant labor camp permitting, design, operation, maintenance, and health requirements to remain unclear and outdated. This no-action alternative would result in inconsistent interpretation and enforcement of migrant labor camp standards. In addition, there would be no adequate provisions for water supply, sewage disposal, general sanitation and maintenance, food handling, and safety. A no-action alternative would not align with the purpose and intent of the periodic review process required by Code of Virginia § 2.2-4017. Periodic review of regulations. Providing clear and up-to-date standards helps provide consistent oversight and management while reducing the risk of illness and injury at migrant labor camps throughout the Commonwealth. For the reasons previously stated, the agency is proposing to update and clarify all sections of the Regulations where needed, and to re-organize the overall content in a manner that is easy to follow, read, and understand.

During the development of the proposed amendments, stakeholders voiced the idea of repealing the Regulations and relying on Virginia Works to enforce the applicable federal housing standards for migrant labor camps. Such an action would reduce a duplicative inspection occurrence, where Virginia Works staff and VDH staff both inspect migrant labor camps to determine compliance with applicable state and federal housing standards. However, the Code of Virginia § 32.1-205 requires anyone operating a migrant labor camp to have a permit and § 32.1-207 further requires the Commissioner or their designee to inspect and issue a permit for the operation of the camp. While § 32.1-211 states that the Board [of Health] *may* adopt regulations governing migrant labor camps, it is considered that the repeal of the existing Regulation is not the intention of the Code of Virginia and would not remove the requirement that the Commissioner or their designee issue a permit to operate a migrant labor camp. The removal of regulation would confuse and complicate the required process of permit issuance. It is unclear how the agency would issue a permit to operate a migrant labor camp in the absence of regulation.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

The Board of Health is directed through the Code of Virginia § 32.1-205 to require a permit to operate a migrant labor camp and through § 32.1-207 to inspect and permit migrant labor camps. The Code of Virginia § 32.1-211 states that the Board may adopt regulations governing migrant labor camps which supplement the occupational safety and health regulations adopted by the Safety and Health Codes Board pursuant to Chapter 3 (§ 40.1-22 et seq.) of Title 40.1 and which are necessary to protect the health of migrant workers. Such regulations may include, but need not be limited to, standards governing:

- 1) The sites of camps.
- 2) The provision of an adequate and convenient supply of pure water as defined in § 32.1-167.
- 3) The disposal of sewage as defined in § 32.1-163.
- 4) The storage and disposal of solid waste.
- 5) The maintenance of the campgrounds.
- 6) The construction, maintenance, alteration or remodeling of buildings and structures for the housing of migrant workers and their families, including wash and bathrooms, central cooking facilities, central dining rooms, sleeping quarters, assembly rooms, lighting and ventilation.

If the Board considered establishing less stringent compliance requirements for migrant labor camps, the listed standard requirements would not be met. Current regulations do not meet acceptable standards of health specific to the majority of the requirements outlined in § 32.1-211, specifically the provision of an adequate and convenient supply of pure water, the maintenance of campgrounds, or the construction, maintenance, alteration or remodeling of buildings and structures for the housing of migrant workers and their families.

The agency worked with industry stakeholders to establish the proposed amendments that best align with Virginia’s public health standards. In addition, any potential exemptions to the state regulation can be pursued by a migrant labor camp owner through the revised variance process provided in the proposed regulation.

As the Regulations have incorporated federal housing standards for temporary agricultural workers, the workgroup amended the Regulations to reduce or remove any duplicative content that already existed in federal standards. Where federal standards were vague or inconsistent, the Regulations provide consistent application and understanding of the regulatory requirements for migrant labor camps.

**Periodic Review and
Small Business Impact Review Report of Findings**

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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 applicable law, will minimize the economic impact of regulations on small businesses.

This proposed Regulation is not being used to announce a periodic review or a small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those

received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

During the Notice of Intended Regulatory Action public comment period that ended January 15, 2025, the following public comments were received:

Commenter	Comment	Agency response
<p>Anonymous (229068)</p>	<p>Dangerous mistake</p> <p>Americans are the most giving people in the world, but the way we are going about this is not right for the safety of our every Virginian American Citizen. Our nation and state must be united in keeping our homes, neighborhoods, towns, communities, and cities safe and secure. We have seen enough examples of Portland, Chicago, New York City, San Francisco, and other places where destruction of encampments for illegals are dangerous. Four years of economic decline, crime rates soaring, and poverty increases for American-Virginia citizens like me because of selfish interests. How about reaching out to citizens of Virginia who have been struggling for years ? Across the political aisles and working with everyone else? How about reporting the facts consistently even if it doesn't make you look good? Honest reporting How about talking responsibly for lockdowns, forced vaccinations, masks wearing, mandates, slow education progress? Family is the most important factor in the child's life, not big government. How about stop pushing solar power items and allow people to have choices? Please stop focusing on people based on race, gender, religion, education, location, etc? A person's character and hard work will always be valued! How about stop spying and censoring Americans, media outlets,?</p>	<p>The agency thanks the commentor for their comment.</p>

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Virginia Department of Health is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Briana Bill, 109 Governor Street, 6th Floor, Richmond, VA 23219, briana.bill@vdh.virginia.gov, or fax (804) 864-7475. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
12VAC5-501-10		Definitions. Defines words and terms used in the chapter.	Change: Deleted definitions not used in the chapter or that are otherwise described in section content: Approved water supply, Director, and Owner. Amended definitions to improve clarity and understanding and to meet style and formatting requirements: Commissioner, Department, Migrant labor camp, Migrant worker, and Variance.

			<p>Added definitions to include words and terms used in amended chapter: Administrative Process Act, Applicable building code, Camp owner, Employment and Training Administration, Permit holder, Private well, Rainwater harvesting system, Tent, and Waterworks.</p> <p>Intent: Improve clarity and understanding of words and terms used in the amended chapter.</p> <p>Rationale: Definitions for words and terms will enhance reader understanding and provide consistent application throughout the regulation.</p> <p>Impact: Improved understanding and application of the regulation.</p>
12VAC5-501-20		<p>Purpose of regulations. Identifies that the purpose of the chapter is to ensure safe and healthy living conditions are provided for migrant workers; to establish standards to permit, deny, revoke or suspend a permit.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and is addressed by the Code of Virginia § 32.1 Article 2 and Article 3.</p> <p>Impact: None.</p>
12VAC5-501-30		<p>Administration of regulations. Outlines that the regulations are administered by the State Board of Health, the State Health Commissioner, the State Department of Health, and the district or local health director.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and is addressed by the Code of Virginia § 32.1 Article 2 and Article 3.</p> <p>Impact: None.</p>
12VAC5-501-40		<p>Right of entry to inspect, etc.; warrants. Provides the right of entry and the ability for inspection.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and is addressed by the Code of Virginia § 32.1-25.</p> <p>Impact: None.</p>
12VAC5-501-50		<p>Continuing validity of existing permits.</p>	<p>Change: Repealed.</p>

		Provides that operational permits in effect prior to January 2006 shall remain valid until the expiration date.	<p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is no longer relevant.</p> <p>Impact: None.</p>
12VAC5-501-60		<p>Application of the Administrative Process Act. Provides that the Administrative Process Act shall govern the procedures for rendering all case decisions.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative. The content is provided in the Code of Virginia § 32.1-24. Applicability of Administrative Process Act.</p> <p>Impact: None.</p>
12VAC5-501-70		<p>Emergency orders. Allows the commissioner to issue emergency orders.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative. The content is provided in the Code of Virginia § 32.1-13. Emergency orders and regulations.</p> <p>Impact: None.</p>
12VAC5-501-80		<p>Enforcement of regulations. Outlines requirements for notices, orders, hearings, permit revocation, and legal action.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative. The Code of Virginia sections §§ 32.1-26, 32.1-27, 32.1-209, and 32.1-210 provide the referenced authority. Content relevant to notice and due process, is proposed amended section 12VAC5-501-220. Enforcement, notices, informal conferences.</p> <p>Impact: None.</p>
12VAC5-501-90		<p>Penalties, injunctions, civil penalties, and charges for violations. Outlines when a person may be guilty of a misdemeanor, compelled to comply with an</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative. The content is provided</p>

		injunction, civil penalties, and to pay civil charges.	in Code of Virginia § 32.1-27. Penalties, injunctions, civil penalties and charges for violations. Impact: None.
12VAC5-501-100		OSHA enforcement. Provides that the chapter shall not bar the enforcement of the occupational safety and health standards.	Change: Repealed. Intent: To remove unnecessary sections from the chapter. Rationale: This section is unnecessary as the Code of Virginia § 40.1-22 provides this authority. Impact: None.
12VAC5-501-110		Suspension of regulations during disasters. Provides that in the case of a disaster, the commissioner may suspend regulations if they find that the regulations cannot be complied with and the public health is better served by not fully complying with the regulations.	Change: Amended. Intent: To clarify that the State Health Commissioner, and not their designee, may suspend certain regulations in the event of a disaster. Rationale: It should be clear that the authority to suspend regulations in the event of a disaster only resides with the State Health Commissioner, as the duly appointed representative of the Board of Health. Impact: Improved understanding of authority.
12VAC5-501-120		Variances. Provides the ability for variances issued by the Commissioner of Labor and Industry and the State Health Commissioner. Outlines the variance process.	Change: Amended. Intent: To streamline the variance content to align with other regulation variance processes and current practice. Rationale: The original section content does not meet current style and formatting requirements, some references to other code citations are incorrect or hard to understand, and the section content can be reduced and provided in a more succinct manner. Removed reference to variance approval by the Commissioner of Labor and Industry. Revised the section content that refers to the State Health Commissioner with reference to the commissioner.

			<p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners with a clear pathway to requesting a variance.</p>
12VAC5-501-130		<p>Case decisions. Provides that the commissioner or designee may make case decisions based on informal hearings.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative as the content is provided in the Code of Virginia § 2.2-4019 through § 2.2-4023.1.</p> <p>Impact: None.</p>
12VAC5-501-140		<p>Request for hearing. Outlines that a request for a hearing will be in writing and sent to the local health department and that requests must be received within 30 days of the decision.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative as the content is provided in the Code of Virginia § 2.2-4019 through § 2.2-4023.1.</p> <p>Impact: None.</p>
12VAC5-501-150		<p>Hearing. Provides any owner, camp operator, or named party, a right to a hearing.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative as the content is provided in the Code of Virginia § 2.2-4020.</p> <p>Impact: None.</p>
12VAC5-501-160		<p>Appeals. Provides that any appeal from a denial must be made in writing with 30 days of receipt of the denial and that an appeal may be made to circuit court.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: This section is unnecessary and duplicative as the content is provided in the Code of Virginia § 2.2-4023.1.</p> <p>Impact: None.</p>
12VAC5-501-170		<p>Notice of intention to construct or remodel camp and submission of plans.</p>	<p>Change: Amended.</p>

		<p>Provides that any person planning to construct, substantially remodel, or enlarge for occupancy or use a migrant labor camp or any portion of the facility thereof, or to convert a property for use as a migrant labor camp, to notify the local health department within 30 days of construction. The notice shall provide the property location, plans of proposed construction, and the name and mailing address of the person giving notice. The section then requires the local health department to provide the person with a copy of the Code of Virginia and the regulations.</p>	<p>Intent: Revise section title to: “Plan review.” Amend content to better communicate the information provided by the applicant that the local health department requires to conduct a plan review; outline the plan review process, including approval or denial notification; and provide an expiration date for plan review approvals.</p> <p>Rationale: The plan review process is typical of VDH permitted establishment processes and the proposed section outlines the information required to conduct a review of the proposed camp to ensure likely compliance with state and federal standards. This section is intended to provide a consistent plan review process and response. As federal standards may not align with the building code, not providing a regulatory structure to the plan review process may result in a migrant labor camp being built out of compliance with federal standards, thus resulting in delays in permitting and costly/timely retrofitting of structures to meet federal requirements.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners with a clear understanding of the plan review process.</p>
<p>12VAC5-501-180</p>		<p>Permits. Provides that no person shall own or operate a migrant labor camp without a permit. Outlines requirements to be met to allow for permit issuance; Prohibits permit transfer; Requires permits be posted and accessible.</p>	<p>Change: Amended.</p> <p>Intent: To streamline the permit content to align with other regulation permit processes and current practice.</p> <p>Rationale: The original section content does not meet current style and formatting requirements. The Code of Virginia, § 32.1-206., requires an application for a permit to operate a migrant labor camp to be made to the Commissioner at least thirty days before such a camp is to be opened on a form prescribed by the Board.</p> <p>Stakeholders questioned the relevance of the application content outlined in subsection C. The requirement to describe the camp site and structures, the lodging provided, and a description of the water supply, sewage disposal</p>

			<p>system, and sanitary facilities is considered necessary to ensure compliance with state and federal standards. These descriptions may aid the local health department in reviewing the application for completeness and ensuring adequate services are in place for the number of occupants intended. A description of the agricultural activities may aid the local health department in determining if the housing is indeed agricultural or fishing related and therefore subject to permitting.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners with a clear understanding of the permit process.</p>
12VAC5-501-190		<p>Application for permit. Provides that an application for a permit will be on a form prescribed by the board; that an application is required 30 days prior to opening the camp; that separate applications are required each year, and outlines department approval and denial notifications.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: The content related to an application for a permit is provided in amended section 12VAC5-501-180.</p> <p>Impact: None.</p>
12VAC5-501-200		<p>Issuance of permit. Provides that prior to issuance of a permit, the camp will be inspected. Provides that a permit shall expire December 31 each year and that changes in camp operator voids the permit and a new application is required.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: The content related to the issuance of a permit is provided in amended section 12VAC5-501-180.</p> <p>Impact: None.</p>
12VAC5-501-210		<p>Denial of a permit. Provides that when a permit is denied, within 10 days the department will send the applicant a written explanation.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: The content related to the denial of a permit is provided in amended section 12VAC5-501-180.</p> <p>Impact: None.</p>
12VAC5-501-220		<p>Suspension of a permit. Provides that the director may suspend a permit and provides the notification,</p>	<p>Change: Amended.</p> <p>Intent: Revise section title to: "Notice, enforcement, informal conferences.," to</p>

		<p>compliance, and hearing request requirements.</p>	<p>convey requirements specific to notice, enforcement, and conferences, in that order. Amend content to better reflect the enforcement process by requiring notice of violation; reason and process for permit suspension; reason and process for permit revocation; informal fact-finding processes; and appeals.</p> <p>Rationale: The proposed section outlines the notice, enforcement, and informal conference processes that are typical of VDH enforcement processes. This section is intended to provide a consistent enforcement process and response.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners with a clear understanding of the enforcement process.</p>
12VAC5-501-230		<p>Revocation. Provides that prior to revocation, the director shall notify the permit holder or camp operator. Provides the timeframe for revocation and informal hearings.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: The content related to the revocation of a permit is provided in amended section 12VAC5-501-220.</p> <p>Impact: None.</p>
12VAC5-501-240		<p>Application after revocation. Provides that anyone whose permit has been revoked may reapply.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: The content related to the re-application of a permit is provided in amended sections 12VAC5-501-180 and 12VAC5-501-220.</p> <p>Impact: None.</p>
12VAC5-501-250		<p>Compliance with regulations. Provides that the camp operator shall be responsible for ensuring the migrant labor camp is in compliance with regulation.</p>	<p>Change: Amended.</p> <p>Intent: To provide clarity of responsibility.</p> <p>Rationale: Clarifies that the permit holder is responsible for ensuring compliance with the regulations.</p>

			<p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp permit holders with a clear understanding of the compliance requirement and responsibility.</p>
12VAC5-501-260		<p>Inspections to be conducted. Provides that inspections shall be conducted by the department and if the camp is found not in compliance, that the department may suspend or revoke the permit. Provides that the department shall inspect camps as often as necessary to ensure compliance.</p>	<p>Change: Amended.</p> <p>Intent: Revise section title to: "Inspections." Amend content to better reflect the inspection process by requiring inspections before permit issuance and as often as necessary to ensure compliance; requiring local health departments to notify the camp operator of the intent to inspect; requiring camp operators to accompany department staff during the inspection of sleeping areas and other areas where the worker's individual belongings are stored; and the requirement for the department to provide an inspection report.</p> <p>Rationale: The proposed section outlines the inspection process that is typical of VDH inspection processes, with amendments as requested by the stakeholder workgroup. This section is intended to provide a consistent inspection process.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the inspection process.</p>
12VAC5-501-270		<p>Inspection report. Provides that the director or their designee shall provide the camp operator with a copy of the inspection report. Provides requirements of the report.</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: The inspection report requirement is provided in amended section 12VAC5-501-260.</p> <p>Impact: None.</p>
12VAC5-501-280		<p>Correction. Provides that an inspection report shall specify time for corrective action for violations. States that if a substantial and imminent health hazard is declared by the director, the operator</p>	<p>Change: Repealed.</p> <p>Intent: To remove unnecessary sections from the chapter.</p> <p>Rationale: Corrective actions are addressed in amended section 12VAC5-501-260. Imminent health hazards are</p>

		<p>shall cease operations immediately. Requires violations to be corrected within a reasonable amount of time.</p>	<p>addressed in amended section 12VAC5-501-220.</p> <p>Impact: None.</p>
<p>12VAC5-501-290</p>		<p>Primary source of standards. Provides that the occupational safety and health standards and any applicable exceptions shall apply to migrant labor camps.</p>	<p>Change: Amended.</p> <p>Intent: Amend content to better reflect the primary source of standards and how they apply to the chapter.</p> <p>Rationale: The chapter pursuant to § 32.1-211 is intended to supplement the Virginia Occupational Safety and Health (VOSH) standards titled, Federal Identical General Industry Standards (16VAC25-90-1910). The VOSH standards have adopted federal OSHA housing standards. Therefore, through the VOSH standards, federal standards are applicable to migrant labor camps, and the department shall inspect and enforce the federal standards as part of the chapter.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of standards that apply to migrant labor camps.</p>
<p>12VAC5-501-300</p>		<p>Exception to occupational safety and health standards. Provides that migrant labor camps will be inspected in accordance with federal standards based on the date of construction.</p>	<p>Change: Amended.</p> <p>Intent: Amend content to better reflect the applicability of federal standards and how they apply to the chapter.</p> <p>Rationale: While the VOSH Federal Identical General Industry Standards (16VAC25-90-1910) have adopted the 29 CFR 1910.142 as federal OSHA standards for migrant labor camps, § 654.401 of the ETA provides that “employers whose housing was completed or under construction prior to April 3, 1980, or was under a signed contract for construction prior to March 4, 1980, may continue to follow the full set of the Department's ETA standards set forth in this subpart.” Further, the ETA provides that “the Department will consider agricultural housing which complies with ETA transitional standards set forth in this subpart also to comply with the Occupational Safety and Health</p>

			<p>Administration (OSHA) temporary labor camp standards at 29 CFR 1910.142.”</p> <p>Historically, it has been unclear how renovations or other minor construction impact the eligibility of a migrant labor camp to be subject to ETA standards. Subsection B identifies that cosmetic remodeling will not be considered new construction and should be treated as existing housing.</p> <p>Impact: Improved understanding and application of the application of federal standards. Provides migrant labor camp owners and the department with a clear understanding of which federal standards (ETA or OSHA) apply to migrant labor camps.</p>
<p>12VAC5-501-310</p>		<p>Trash and garbage collections. Provides that the camp operator shall provide for trash collection and disposal in accordance with the Solid Waste Management Regulations (9VAC20-80)</p>	<p>Change: Amended.</p> <p>Intent: Revise section title to: “Solid waste.” Amend section content to clearly reflect the solid waste management requirements. Use the term “solid waste” to include the variety of waste that may be created at migrant labor camps, including trash, garbage, rubbish, or other types of waste.</p> <p>Rationale: The proposed solid waste provisions provided in the section address requirements that are not provided consistently in OSHA or ETA standards, including trash can durability and condition, lid function, size of containers, cleanliness, and general transportation of solid waste. In Virginia, solid waste shall be managed, transported and disposed of in accordance with the Solid Waste Management Regulations (9VAC20-81 et seq.) and applicable local ordinances.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of solid waste management at migrant labor camps.</p>
<p>12VAC5-501-320</p>		<p>Requirements for water supplies.</p>	<p>Change: Amended.</p> <p>Intent: Amend section content to clearly reflect the water supply requirements</p>

		<p>Provides that all migrant labor camps shall have an approved water supply.</p>	<p>including a continuous supply of potable water provided by an approved source (private well, public water, rainwater harvesting system); a water distribution system installed in accordance with the applicable building code and maintained in a protective manner; water tested as directed by an approved laboratory and in compliance with total coliform and nitrate levels; provisions for discontinuation of water supply and reinstating a water supply; and emergency use of a water supply.</p> <p>Rationale: OSHA and ETA standards require an adequate and convenient water supply that meets standards of the health authority. In the absence of a state standard specific to water supply for migrant labor camps, the standards must be included within the chapter. The proposed provisions outlined in this section are similar to other state regulations that require a safe water supply be provided to a user of a permitted establishment (e.g. hotel, campground, food establishment).</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of water supply requirements at migrant labor camps.</p>
<p>12VAC5-501-330</p>		<p>Requirements of sewage disposal. Provides that all migrant labor camps shall comply with the sewage disposal regulations.</p>	<p>Change: Amended.</p> <p>Intent: Amend section content to clearly reflect the sewage disposal requirements, including an approved method and that it is unlawful to discharge sewage without treatment or process approved by the department.</p> <p>Rationale: OSHA standards only require that where public sewer is available that migrant labor camps connect to such systems. No other sewage disposal requirements are provided by OSHA. ETA requires sewage systems be connected to any available public system or otherwise compliance with the state authority. This proposed section outlines fundamental state requirements for safe sewage disposal.</p>

			<p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of sewage disposal requirements at migrant labor camps.</p>
<p>12VAC5-501-340</p>		<p>Storage of hazardous materials. Provides requirements for hazardous material storage location, signage, security, and the provision of personal protective equipment for employees.</p>	<p>Change: Amended.</p> <p>Intent: Amend section content to clearly reflect the hazardous material storage requirements including the requirement that all chemicals be stored, used, and disposed of in accordance with the manufacturer instructions (the label). Proposes storage requirements such as separation from food and living quarters, set-back distances to private wells, and signage in the primary and secondary language of all housing occupants.</p> <p>Rationale: Federal OSHA standards have no requirement for hazardous material storage. Federal ETA standards acknowledge the safety concern through the provision of minimal standards. This proposed section is amended for clarity and basic chemical protection for housing occupants.</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of hazardous material storage requirements at migrant labor camps. Provides protection of the environment and housing occupants.</p>
<p>12VAC5-501-350</p>		<p>Conformity with Uniform Statewide Building Code. Provides that all newly constructed migrant labor camps shall comply with the Virginia Uniform Statewide Building Code (13VAC5-63).</p>	<p>Change: Amended.</p> <p>Intent: Revise section title to: "Compliance with the Uniform Statewide Building Code, Statewide Fire Prevention Code and local requirements." Amend section content to clearly reflect the requirement that newly constructed migrant labor camps be constructed in accordance with the building code. Requires buildings to be maintained in accordance with the fire code, if it applies to the building.</p> <p>Rationale: As both federal OSHA and ETA standards require compliance with the state and local ordinances, codes,</p>

			<p>and regulations, the proposed section provides reference to which code specifically applies in Virginia: the USBC (13VAC5-63) and the applicable Fire Prevention Code (13VAC5-52).</p> <p>Impact: Improved understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the requirement for migrant labor camps to be constructed and maintained in accordance with applicable building or fire code.</p>
	12VAC5-501-360		<p>Change: Proposed.</p> <p>Intent: Propose section title: "Housing and sleeping facilities." Propose section content to clearly outline the requirements that lodging structures be cleanable and maintained in good repair, that beds with adequate and safe spacing are provided, and that fire prevention equipment is provided in all migrant labor camp structures.</p> <p>Rationale: Federal standards are inconsistent with the most basic housing standards. This section proposes consistent minimal requirements for housing and sleeping facilities that are considered to meet the minimal requirements for both OSHA and ETA standards.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the housing and sleeping facility requirements. Provides basic structural, cleanliness, and bedding requirements.</p>
	12VAC5-501-370		<p>Change: Proposed.</p> <p>Intent: Propose section title: "General sanitation and maintenance." Propose section content to clearly outline the requirements that all structures used for the migrant labor camp be kept clean, in good repair, and maintained to protect the health, safety, and well-being of persons using those facilities</p>

			<p>Rationale: Where federal standards lack clear and consistent requirements for camp buildings, structures, equipment, etc. to be maintained clean and in good repair, this section proposes the requirement.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the general sanitation and maintenance requirements. Provides that camps be maintained in good repair and be kept clean.</p>
	<p>12VAC5-501-380</p>		<p>Change: Proposed.</p> <p>Intent: Propose section title: "Heating and cooling." Propose section content to clearly outline the requirements to provide operable heating and cooling equipment, provide shades or other means to reduce radiant heat during hot weather, and that such equipment be installed and used in accordance with manufacturer specifications.</p> <p>Rationale: Where federal standards lack clear and consistent requirements for heating specifications, this section proposes the requirement. ETA requires heating be provided when temperatures are at 68°F or less, whereas OSHA states that heating is required if the camp is used in "cold weather"; OSHA does not describe or define what "cold weather" is. ETA requires heating equipment that is capable of maintaining an indoor temperature of 68°F or more, whereas OSHA requires heating equipment capable of maintaining a temperature of at least 70°F in service buildings, specifically; it is expected that this heating temperature expectation (of 70°F) translates to indoor temperatures for "shelters" as well, as they are required to be heated if used during cold weather. Per OSHA, even if a camp was mobile or provided in tents or vehicles, a "service building" must be heated accordingly. Therefore, heating to at least 70°F in living and sleeping quarters is considered applicable. This subsection also proposes "cold weather" as 68°F or less but does not prescribe</p>

			<p>the minimum heating temperature required as ETA and OSHA address the requirement with specific yet differing temperatures. Window shades or other provisions to reduce radiant heat may aid in keeping living/sleeping facilities cooler during hot weather.</p> <p>The proposed requirement to provide equipment capable of maintaining sleeping quarters with a temperature of 85°F or less when outside temperatures exceed a heat index of 90°F will provide workers with relief from extreme heat. Neither ETA nor OSHA standards prescribe a method to reduce heat within migrant labor housing. Several Virginia regulations prescribe maximum temperatures between 80-85°F for occupants who cannot relocate or leave provided housing (Chapter 61. Standards and Regulations for Licensed Adult Day Centers (22VAC40-61-430), Chapter 73. Standards for Licensed Assisted Living Facilities (22VAC40-73-880), and Chapter 81. Standards for Planning, Design, Construction, and Reimbursement of Local Correctional Facilities (6VAC15-81-720)). As migrant workers are often exposed to high or extreme heat during the work-day and most guidance on avoiding heat-related illness includes temporarily relocating to an area with air conditioning, the proposed provision of cooling equipment in the event of extreme heat may help protect the health and well-being of migrant workers (https://www.ready.gov/heat; https://www.cdc.gov/heat-health/about/index.html).</p> <p>The installation and use of equipment in accordance with manufacturer specifications will help ensure equipment is used safely and as intended.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the heating and cooling requirements. Provides that camps be maintained in a safe and comfortable temperature.</p>
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	<p>12VAC5-501-390</p>		<p>Change: Proposed.</p> <p>Intent: Propose section title: "Storage, handling, and preparation of food." Propose section content to clearly outline that if food is prepared or served by the camp owner or food preparation and service is contracted by the owner, that a food permit is required. Proposes that if food is prepared and served by the migrant workers that refrigeration, a stove, a sink, food storage, eating areas, and light be provided. Proposes that food storage and preparation areas be cleanable and in good repair, the ventilation be provided in accordance with building code, and that fire safety equipment be provided in cooking areas.</p> <p>Rationale: Where federal standards lack clear and current requirements for food storage and handling specifications, this section proposes the requirement.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the food handling and storage requirements.</p>
	<p>12VAC5-501-400</p>		<p>Change: Proposed.</p> <p>Intent: Propose section title: "Insects, rodents, and weed control." Propose section content to clearly outline the requirements for reducing the potential for infestation of pests or overgrowth of noxious plants.</p> <p>Rationale: Where federal standards lack clear and consistent requirements for vegetation and vector controls, this section proposes the requirement. Federal ETA standards identify that housing and facilities be free from noxious plants and uncontrolled weeds/brush, whereas OSHA standards do not. ETA requires housing and facilities be free of insects, rodents and other vermin, whereas OSHA does not. However, as it may be impossible to ensure a facility is completely free of any insect, it may be expected that it is intended that a facility be "free from infestation;" OSHA requires effective measures be taken to prevent infestation</p>

			<p>of animals, insects, or pests, whereas ETA does not require such action. This section proposes consistent application to the prevention of uncontrolled vegetation and infestation of pests.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the vegetation and vector control requirements.</p>
	<p>12VAC5-501-410</p>		<p>Change: Proposed.</p> <p>Intent: Propose section title: "Safety and first aid." Propose section content to clearly outline the requirements that a camp owner provide a first aid kit and develop and share with workers an emergency response plan.</p> <p>Rationale: Where federal standards require "first aid facilities," it is expected that "first aid facilities" means that a method of administering first aid is provided. This section proposes a minimum requirement for a first aid kit and plans for emergency response. The development of an emergency response plan is considered an essential first step to planning for an emergency and the safety of occupants of camps.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding of the safety and first aid requirements.</p>
	<p>12VAC5-501-420</p>		<p>Change: Proposed.</p> <p>Intent: Propose section title: "Communicable disease." Propose section content to clearly outline the requirement that the camp owner be in accordance with Regulations for Disease Reporting and Control (12VAC5-90), as applicable.</p> <p>Rationale: Chapter 90. Regulations for Disease Reporting and Control, 12VAC5-90-90.D requires persons in charge of a facility licensed by any agency of the Commonwealth to report the presence or suspected presence in his facility of persons who have common</p>

			<p>symptoms suggesting an outbreak situation. This section applies to owners and operators of permitted migrant labor camps and requires that they comply with the reporting requirements as part of the migrant labor camp permit requirements.</p> <p>Impact: Understanding and application of the regulations. Provides migrant labor camp owners and the department with a clear understanding that camp owners must comply with the Regulations for Disease Reporting and Control (12VAC5-90), as applicable.</p>
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