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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC 5-440
VAC Chapter title(s)	Regulations for Summer Camps
Date this document prepared	June 30, 2021

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

Acronyms and Definitions

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

"Board" or "State Board" means the State Board of Health.

"Summer camp" means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, that is operated or used in this Commonwealth for the entertainment, education, recreation, religious instruction or activities, physical education, or health of persons under 18 years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if 12 or more such persons at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

"Regulations for Summer Camps" hereinafter referred to as 'Regulations'.

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 or 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 agency is the Virginia Department of Health. Chapter 2 of Title 35.1 of the Code of Virginia enumerates the legal authority for VDH to regulate summer camps.

Section 35.1-11 states,

“The Board shall make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of this title and to protect the public health and safety. In promulgating regulations, the Board shall consider the accepted standards of health including the use of precautions to prevent the transmission of communicable diseases, hygiene, sanitation, safety, and physical plant management.”

In addition, Section 35.1-16 of the Code of Virginia states,

“The regulations of the Board governing summer camps shall include, but not be limited to: (i) an approved drinking water supply; (ii) an approved sewage disposal system; (iii) an approved solid waste disposal system; (iv) the adequate and sanitary preparation, handling, protection and preservation of food; (v) the proper maintenance of buildings, grounds, and equipment; (vi) vector and pest control; (vii) toilet, swimming, and bathing facilities, including shower facilities; (viii) a procedure for obtaining a license.”

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are no viable alternatives for achieving the purpose of the regulation. The regulations enable the Board to fulfill its statutory mandates as established in Chapter 2 of Title 35.1 of the Code of Virginia. Further, the regulation is necessary to ensure that the Board's statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety and welfare of the citizens of Virginia.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The General Assembly has charged the Board with the responsibility to adopt, promulgate, and enforce regulations necessary to protect public health and safety as it relates to summer camps. The regulations were reviewed and the agency determined they are essential to protecting public health.

The regulation helps fulfill the statutory mandate from the General Assembly by ensuring that summer camps who receive a license from the Board meet minimum requirements to include (i) an approved drinking water supply; (ii) an approved sewage disposal system; (iii) an approved solid waste disposal system; (iv) the adequate and sanitary preparation, handling, protection and preservation of food; (v) the proper maintenance of buildings, grounds, and equipment; (vi) vector and pest control; and (vii) toilet, swimming, and bathing facilities, including shower facilities.

The regulation meets the criteria set forth in Executive Order 14 (2018). The regulation is necessary to interpret and apply the requirements imposed by the Board and is clearly written and understandable. Lastly, the regulation is designed to achieve its objective in the most efficient and cost effective manner.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The regulation has not undergone a comprehensive review since its initial administrative codification, approximately 20 years ago. The regulation, in its current form, does not reflect existing industry standards, changes in technology or safety, and no longer aligns with other regulations that govern food safety and disease prevention. The agency is recommending that the regulation be amended.

Small Business Impact

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.

Chapter 2 of Title 35.1 of the Code of Virginia mandates the Board to make, adopt, regulate, and enforce regulations necessary to protect public health and safety as it pertains to summer camps. The continued need for the regulation is established in statute and is not discretionary. No comments were received during the public comment period.

The regulation is clearly written and easily understandable; however several sections appear to conflict with state regulations pertaining to food safety and do not reflect or reference current regulatory standards related to swimming facilities, general sanitation, and water supply standards. An evaluation is

necessary to determine how or if technology, economic conditions, or other factors could have an impact on the regulant population or the general public.

As the agency is recommending to amend the regulations, staff will engage with stakeholders and the regulated community regarding any proposed amendments to minimize the economic impact of regulations on small businesses while maintaining appropriate regulatory standards to ensure the safety, health, and welfare of the public.

