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Exempt Action Final Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation(s)	2 VAC 5-319
Regulation title(s)	Best Management Practices for the Operation of Apiaries in Order to Limit Operator Liability
Action title	Promulgate regulations regarding best management practices for apiary operation
Final agency action date	July 20, 2016
Date this document prepared	August 4, 2016

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Chapter 564 of the 2016 Acts of Assembly establishes a new section (Va. Code § 3.2-4411.1) in the Virginia Beekeeping Law (Law) that authorizes the Board of Agriculture and Consumer Services (Board) to adopt regulations establishing best management practices for the operation of apiaries. Section 3.2-4411.1 of the Law also provides that an individual operating an apiary in a responsible manner, in compliance with local zoning restrictions, and in conformance with the regulatory requirements established in this best management practices regulation will not be liable for any personal injury or property damage that occurs in connection with his keeping and maintenance of bees, bee equipment, queen breeding equipment, apiaries, or appliances.

Conformance with the best management practices established in this regulation is required in order for a person to limit his liability as provided for in § 3.2-4411.1 of the Law. The best management practices direct apiary operators to comply with local, state, and federal ordinances, regulations, and laws pertaining to beekeeping. The best management practices further direct apiary operators keeping honey bees to (i) maintain a healthy populous colony of bees; (ii) provide or maintain adequate honey and pollen as food stores for winter survival; (iii) practice management and control techniques to reduce the likelihood of swarming; (iv) maintain colonies at least 10 feet away from property lines and place all colonies that are less than 40 feet from a property line behind a barrier that is no less than six feet high or elevate the hive entrance to no less than six feet above the property line; (v) maintain a water source within 50 feet of a colony or less than one-half the distance to the nearest unnatural source of water when the operator expects that his bees will rely on a nearby unnatural source of water; (vi) avoid opening or disturbing a colony when the operator is aware of other persons in the vicinity; (vii) only maintain a colony with European honey bees (EHB) or EHB hybrid stock; and (viii) limit the number of colonies placed on his property based upon the maximum number of colonies allowed per acre or portion of an acre as established in the regulation. This regulation has been established to encourage responsible beekeeping practices that will promote a healthy and docile bee population, thereby minimizing the risk of injury to the public.

A person is not required to comply with the provisions of the proposed regulation unless he seeks to limit his liability as provided for in § 3.2-4411.1 of the Law.

Section 3.2-4411.1 requires the full adoption of this regulation by the Board before the limitation of liability can take effect. Section 3.2-4411.1 also permits the Board to adopt initial regulations to implement the provisions of this section to be effective no later than November 1, 2016, and exempts such initial regulations from the requirements of Article 2 (Va. Code § 2.2-4006 et seq.) of the Administrative Process Act.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On July 20, 2016, the Virginia Board of Agriculture and Consumer Services adopted as final the regulation entitled Best Management Practices for the Operation of Apiaries in Order to Limit Operator Liability (2 VAC 5-319).

Family impact

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

The promulgation of this regulation will not have an impact on the family or family stability. This regulation will not impact: (i) the authority and rights of parents; (ii) economic self-sufficiency, self-pride, and the assumption of responsibility of oneself or family members; (iii) marital commitment; or (iv) disposable family income.