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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Virginia Department of Labor and Industry
Virginia Administrative Code (VAC) citation	16 VAC 25-55
Regulation title	Financial Requirements for Boiler and Pressure Vessel Contract Fee Inspectors
Date	October 30, 2015

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

The Safety and Health Codes Board is authorized by Title 40.1-51.9:2 C of the *Code of Virginia* to, "...promulgate regulations requiring contract fee inspectors, as a condition of their doing business in the Commonwealth, to demonstrate financial responsibility sufficient to comply with the requirements of this chapter. Regulations governing the amount of any financial responsibility required by the contract fee inspector shall take into consideration the type, capacity and number of boilers or pressure vessels inspected or certified."

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

This regulation ensures a minimum level of indemnification in cases involving bodily injury and property damage resulting from, or directly relating to, a contract fee inspector's negligent inspection or recommendation for certification of a boiler or pressure vessel. The required insurance indemnifies contract fee inspectors from potential lawsuits to the level of their coverage, and the financial responsibility gives contract fee inspectors a vested interest in the performance of the inspections they conduct.

This regulation includes alternative instruments other than insurance. It sets minimum aggregate limits for insurance coverage or other means provided for in the Code of Virginia. The minimum of \$500,000 offers flexibility for small businesses with less potential exposure to risk.

Thus, for the reasons noted above, there are no other viable alternatives for achieving the purpose of this regulation.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

There were no comments. No informal advisory group was formed for purposes of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation is necessary for the protection of public health, safety, and welfare. The regulation is clearly written and easily understandable.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation remain in effect without change. In its review of this regulation, the agency has determined that there is a continued need for the regulation because it ensures a minimum level of indemnification in cases involving bodily injury and property damage resulting from, or directly relating to, a contract fee inspector's negligent inspection or recommendation for certification of a boiler or pressure vessel.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3)

the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

In its review of this regulation, the agency has determined that there is a continued need for the regulation because it ensures a minimum level of indemnification in cases involving bodily injury and property damage resulting from, or directly relating to, a contract fee inspector's negligent inspection or recommendation for certification of a boiler or pressure vessel. The regulatory language is clear and avoids complexity. This regulation, which became effective in 2007, does not overlap, duplicate, or conflict with federal or state law or regulation. The current review follows the first periodic review of regulation, which was conducted four years ago. There have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation since it became effective. The agency has determined that retaining the regulation without amendment is consistent with the stated objectives of applicable law, and is the most effective way to minimize the economic impact of regulations on small businesses.