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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 15-40
Regulation title	Virginia Hours of Work for Minors
Date	September 21, 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.

This regulation is mandated by the Code of Virginia, §40.1-80.1, which requires the Commissioner of Labor and Industry to promulgate by regulation the hours of work for minors under sixteen years of age. This regulation specifies a lunch period for a child under sixteen years of age who is employed or permitted to work. The regulatory section also requires incorporation of "the standards contained in regulations promulgated by the United States Secretary of Labor pursuant to the Fair Labor Standards Act (29 U.S.C. § 201 et seq.)" concerning hours of work for minors under 16 years of age.

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 governing the hours of work for minors under sixteen years of age is mandated by the Code of Virginia, §40.1-80.1, and is required to be identical to federal regulations. Therefore, the Commissioner has no discretion in the promulgation of this regulation and there are no alternatives to achieve 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.

This regulation is necessary to protect the health, safety, and welfare of minors in Virginia by establishing maximum limits on the number of hours which minors under the age of sixteen may work. The regulation protects the health, safety and welfare of minors in Virginia who are under the age of sixteen by prohibiting inappropriate child labor conditions and by assuring that the minor's work does not interfere with school attendance.

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. This regulation is necessary to protect the health, safety, and welfare of minors in Virginia by establishing maximum limits on the number of hours which minors under the age of sixteen may work. The regulation protects the health, safety and welfare of minors in Virginia who are under the age of sixteen by prohibiting inappropriate child labor conditions and by assuring that the minor's work does not interfere with school attendance.

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.

This regulation should have minimal economic impact on small businesses. The regulation also offers clarity and guidance for small businesses that employ minors under sixteen years of age. The regulatory language is clear and avoids complexity. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. This regulation was last reviewed 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.