



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

| | |
|--|---|
| Agency name | Virginia Department of Health (VDH) |
| Virginia Administrative Code (VAC) citation | 12 VAC 5-440-10 et seq. |
| Regulation title | Regulations for Summer Camps |
| Action title | Amend Regulations to reflect current industry standards |
| Date this document prepared | December 10, 2010 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Regulations for Summer Camps are outdated and the State Board of Health (“board”) needs to revise them to reflect current industry standards. The board will repeal any sections that are no longer necessary, and the board will replace those sections with other regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* at § 35.1-11 authorizes the board to make, adopt, promulgate and enforce regulations that are necessary to carry out the provisions of title 35.1 and other laws of the Commonwealth administered by it or the State Health Commissioner (“commissioner”). Section 35.1-16 of the *Code* mandates that the board’s regulations governing summer camps include requirements for an approved drinking water supply, approved sewage disposal, approved solid waste disposal, proper food preparation, handling and preservation, the proper maintenance of buildings and grounds and equipment, vector and pest control, and a procedure for obtaining a license.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The regulations protect public health by providing effective standards applicable to summer camps. Specifically, the provisions of the regulations address: approved drinking water supplies, sewage and solid waste disposal systems; adequate and sanitary preparation, handling, protection and preservation of food; proper maintenance of buildings, grounds and equipment; vector and pest control and toilet facilities. The proposed regulations will also include appropriate provisions for obtaining a license. The board must amend these outdated regulations to ensure they are adequate to protect the health and safety of summer camp attendees and staff. The board also needs to eliminate sections of the regulations that are no longer necessary.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The board needs to revise and amend the regulations to make them more current with present day accepted standards for the construction and operation of summer camps. The board also needs to repeal sections of the regulations that are no longer necessary.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

These regulations are mandated by the Code. The board will repeal any section of the regulations that is no longer needed. The board will amend and revise other sections that pertain to the operation of the summer camp itself to reflect current industry standards. The other available alternative is to continue with the current regulations, but in light of the antiquated standards and the existence in the current regulations of sections that are no longer applicable or needed, amending the regulations will improve the board's ability to effectively carry out its public health responsibilities under title 35.1 of the Code.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the

alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to: 1) ideas to assist in the development of a proposal; 2) the costs and benefits of the alternatives stated in this background document or other alternatives; and, 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code Information may include 1) projected reporting, recordkeeping and other administrative costs; 2) probable effect of the regulation on affected small businesses; and, 3) descriptions of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website, www.townhall.virginia.gov, or by mail, email, or fax to Gary Hagy, Director, Division of Food and Environmental Health Services, 109 Governor Street, Richmond, VA 23219, 804-864-7455, Fax 804-864-7475, or via email at gary.hagy@vdh.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

The agency will hold a public hearing; notice of the hearing will be posted on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, regulatory advisory panels) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

VDH will be using the participatory approach and will be consulting with summer camp operators during the development of any amendments. All interested parties who would like to participate can contact Gary Hagy, Director, Division of Food and Environmental Health Services, 109 Governor Street, Richmond, VA 23219, 804-864-7455, Fax 804-864-7475, or via email at gary.hagy@vdh.virginia.gov.

Family impact

Assess the potential impact of the proposed 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.

1) The proposed modification of these regulations will neither strengthen nor erode the authority and rights of parents in the education, nurturing, and supervision of their children.

- 2) The proposed modification of these regulations will neither encourage nor discourage economic self-sufficiency, self-pride, nor the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents.
- 3) The proposed modification of these regulations will neither strengthen nor erode the marital commitment.
- 4) The proposed modification of these regulations will neither increase nor decrease disposable family income.

Periodic review

If this NOIRA is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

| Commenter | Comment | Agency response |
|-----------|---------|-----------------|
| | | |

1. No comments were received during the comment period following the publication of the Notice of Periodic Review.

2. The amended regulations will meet the criteria set out in Executive Order 14 (2010). The amended regulations will be clearly written and easily understood. The regulations, as amended, are also necessary for the board to carry out the provisions of title 35.1 of the Code so as to protect public health and the environment. The development of the regulations will consider the best reasonably available and reliable, scientific, economic, and other information concerning the need for, and consequences of, the regulations. The amended regulations will achieve their intended objective in the most efficient, cost-effective manner. In addition, the amended regulations will be in accordance with statutory provisions related to impact on small businesses. Further, the amended regulations will not adversely impact existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Small business impact review

*Pursuant to § 2.2-4007.1 E and F each existing regulation shall be reviewed **at least once every five years** to ensure that it minimizes the economic impact on small businesses.*

If this NOIRA will not include a review of the entire regulation for small business impact, please delete this entire section.

If this NOIRA will include a review of the entire regulation for small business impact, 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 complexity of the regulation; (3) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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 agency’s determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

VDH's Division of Food and Environmental Services cannot determine the date when these regulations were last amended. There is a continued need for the regulations. The regulations are very basic and not complex. The regulations do not duplicate any other state or federal regulations or laws. The board will amend these regulations to eliminate outdated and unnecessary requirements and make the regulations consistent with present day standards. The division will evaluate amendments to the regulations, as well as existing sections that are not revised to minimize economic burdens on small businesses.