



townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation(s)	2 VAC 5-115
Regulation title(s)	Regulations for Determining Whether A Private Animal Shelter Meets the Purpose of Finding Permanent Adoptive Homes for Animals
Action title	Promulgate regulation required by Chapter 319 of the 2016 Acts of Assembly pertaining to private animal shelters
Date this document prepared	July 21, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

This regulatory action will result in the promulgation of the regulation required by Chapter 319 of the 2016 Acts of Assembly. Chapter 319 of the 2016 Acts of Assembly requires the Board of Agriculture and Consumer Services (Board) to adopt a regulation for use in determining whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific

provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services as a policy board.

Chapter 319 of the 2016 Acts of Assembly requires the Board to promulgate the regulation described in this notice of intended regulatory action.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

Chapter 492 of the 2015 Acts of Assembly amended the definition of a private animal shelter in the Virginia Comprehensive Animal Care Law (Va. Code § 3.2-6500 *et seq.*) to require that a facility that seeks to be a private animal shelter operate for the purpose of finding permanent adoptive homes. In the year that followed, there was significant debate among stakeholders as to what determines this purpose. This debate continued into the 2016 Session of the General Assembly. Consequently, Chapter 319 of the 2016 Acts of Assembly requires the Board to adopt a regulation for use in determining whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals. The agency expects this issue will remain contentious and may result in considerable public comment.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The proposed regulation will consist of criteria for use in determining whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no alternatives to this regulation, which is required by Chapter 319 of the 2016 Acts of Assembly.

Public participation

Please indicate whether the agency is inviting 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. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is inviting comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also inviting information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to:

Dr.Carolynn Bissett
102 Governor Street
Richmond, VA 23219
phone: 804-692-4001
fax: (804) 371-2380
email: carolynn.bissett@vdacs.virginia.gov.

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

A panel will not be used to assist in the development of this regulatory proposal.