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

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12VAC5-501
Regulation title	Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps
Date	July 26, 2017

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.

Section 32.1-12 of the Code of Virginia gives authority to the Board of Health (Board) to promulgate regulations. It states, in part, that the Board may make, adopt, promulgate and enforce regulations and provide reasonable variances and exemptions as necessary to carry out the provisions of this title.

Section 32.1-211.B of the Code of Virginia gives authority to the Board to adopt regulations governing migrant labor camps as a supplement to the occupational safety and health regulations adopted by the Safety and Health Codes Board pursuant to Chapter 3 (§ 40.1-22 et seq.) of Title 40.1 of the Code of Virginia. The adoption of such regulations is necessary to protect the health, safety, and welfare of migrant workers in the Commonwealth of Virginia.

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.

No viable alternatives for achieving the purpose of the existing regulations could be determined.

The regulations enable the Board to fulfill the statutory requirements established under Chapter 6 (§ 32.1-203 et seq.) of Title 32.1 of the Code of Virginia. Such requirements include the Board ensuring that safe and healthy living conditions are provided for migrant workers and their families while they are employed and living in the Commonwealth of Virginia and to establish standards for the permitting of migrant labor camps in addition to enforcement action of those migrant labor camps found not in compliance.

The regulations are administered in the least burdensome method.

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.

No comments were received during the public comment period following publication of the Periodic Review. An informal advisory group was not formed for the purpose 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 regulations meet the criteria set forth in Executive Order 17(2014). The regulations provide standards for the permitting of migrant labor camps in the Commonwealth of Virginia. Such standards address the following areas of public health and safety: permitting requirements, trash and garbage collections, requirements for approved water supply, storage of hazard material, and conformity with the Uniform Statewide Building Code and select occupational safety and health standards as proscribed by the Virginia Safety and Health Codes Board. Such standards are necessary to protect the public health, safety, and welfare of migrant laborers. In addition, the regulations are clearly written and understandable.

Result

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

The Board is recommending the regulations remain in effect without change.

This periodic review of the regulations was filed on May 8, 2013. To date, no public comments have been received. The regulations in their current form provide the minimum standards for health and safety as they pertain to migrant labor camps in the Commonwealth of Virginia.

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.

Sections 32.1-12 and 32.1-211.B of the Code of Virginia give authority to the Board to promulgate regulations as it pertains to migrant labor camps. The continued need for the regulations is established in statute. To repeal the regulations would remove certain public protections provided in the regulation.

No complaints or comments were received concerning the regulations from the public.

The regulations are clearly written, easily understandable and do not overlap, duplicate, or conflict with any known federal or state law or regulation.

The most recent evaluation of the regulations occurred in May of 2009. There are no known changes in technology, economic conditions, or other factors that would be affected by the regulations.

Retaining the regulations in their current form does not appear to cause an adverse economic impact on small business in the Commonwealth of Virginia, rather the regulations provided specific minimum requirements to maintain a safe and health working environment for migrant laborers allowing businesses to continue to contribute to the Commonwealth's economy.