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Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-490
Regulation title(s)	Virginia Radiation Protection Regulations
Action title	Establish X-ray Device Private Inspector Fees
Date this document prepared	July 1, 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

The Virginia Department of Health's Office of Radiological Health (ORH) proposes to amend the Virginia Radiation Protection Regulations Fee Schedule (12VAC5-490) in order to establish fees for the registration of individuals that inspect X-ray devices in the Commonwealth, as well as an application change fee for the modification of an inspector's certificate each time an addition or change is requested by that individual.

Legal basis

These regulations are authorized by the Code of Virginia § 32.1-229.1, Inspections of X-ray machines required; Radiation Inspection Reports; fees; qualification of inspectors (effective July 1, 2016).

Section 32.1-229.1 authorizes the Board of Health to set annual registration fees for X-ray device Private Inspectors, not to exceed $150.00 for such registration. Upon approval of their application, the Private

Inspector will be included on the Commonwealth's list of qualified X-ray machine inspector published pursuant to § 32.1-228.1.

Refer to the following web site for viewing the statutory authority cited in Section 32.1-229.1 of the Code of Virginia:

http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+32.1-229.1

Purpose

The Virginia Department of Health (VDH), ORH proposes to amend 12VAC5-490, Radiation Protection Fee Schedule, by establishing a new section 12VAC5-490-50, Private Inspector fees.

Substance

The Virginia Department of Health's Office of Radiological Health (ORH) proposes to amend the Virginia Radiation Protection Regulations Fee Schedule (12VAC5-490) in order to establish fees for the registration of individuals that inspect X-ray devices in the Commonwealth, as well as an application change fee for the modification of an inspector's certificate each time an addition or change is requested by that individual. Radiological Control Program regulations currently require the registration of individuals that inspect X-ray producing devices in the Commonwealth. The regulations, though, do not establish fees for their initial registration, annual renewal or when changes to their certificates, such as inspection categories, are requested. Registration fees for X-ray device Private Inspectors are charged in other states to help offset administrative costs associated with document collection, review, approval, the issuance of certificates and the maintenance of an up-to-date Private Inspector directory. These fees will help offset such administrative costs that were once paid using General Funds allocated to ORH but which have since been abolished.

Alternatives

Failure to establish Private Inspector registration fees may impact the agency's mission and the need to provide an adequate regulatory program that protects public health and safety with regard to the approval of Private Inspectors as well as the maintenance of an up-to-date directory of Private Inspectors authorized to conduct business in the Commonwealth. VDH will consider recommendations from the regulated community for alternative means of satisfying this requirement.

Public participation

The agency is seeking 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 seeking 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 **Stan Orchel, Jr., Virginia Department of Health, Office of Radiological Health, 109 Governor Street, Room 733, Richmond, VA 23219, (804)864-8170 (Office Phone), (804)864-8175 (fax), stan.orchel@vdh.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.

This action satisfies the periodic review requirement of 12VAC5-490.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Periodic review/small business impact review announcement

In addition, pursuant to Executive Order 17 (2014) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Periodic review and small business impact review report of findings

If this NOIRA is the result of a periodic review/small business impact review, use this NOIRA to report the agency's findings. 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 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include 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 the 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.

Not applicable.

Commenter	Comment	Agency response