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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 15-50
Regulation title	Regulations Governing the Employment of Minors on Farms, In Gardens, and in Orchards
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.

The legal authority for this regulation is the Code of Virginia, at §§ 40.1-6, 40.1-100. A. 9, and 40.1-114. Pursuant to the requirements of these code sections, the Commissioner of Labor and Industry has the authority and duty to the employment of children in agriculture. While the regulation is not mandated, the legislative intent of the 1991 revision of the child labor laws applicable to minors employed in agriculture was that certain hazardous occupations would be prohibited occupations for these minors. It was also intended that Virginia's child labor laws and regulations governing the employment of minors in agricultural occupations would be similar to federal laws and regulations. The occupations that are prohibited are not enumerated in the Code of Virginia. Therefore, one of the regulation's primary purposes is to clearly identify these hazardous occupations for minors employed in agricultural occupations.

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.

One alternative is to not regulate child labor on farms. A second alternative is to promulgate voluntary, rather than mandatory, guidelines for employers. Both alternatives are inadequate to protect minors who work for farm employers. Without enforcement accountability, many employers, under the pressure of their duties, would fail to give the needed attention to safety measures. This regulation is thus the least burdensome alternative to ensure that minor children are protected while employed in agricultural occupations on farms, in gardens and in orchards.

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 needed to protect the health, safety, and welfare of minors in Virginia by prohibiting the employment of minors in hazardous agricultural occupations. Many agricultural employers use minors as a cost-efficient means of supplementing an adult workforce. Under the stress and pressure of operating a business and surviving economically, many employers forget that minors do not have the maturity, experience, wisdom and presence of mind to safely work around truly hazardous equipment. This regulation is highly effective in ensuring that agricultural employers do not place minors in hazardous work situations. All of the hazardous occupations governed by this regulation have been proven to be dangerous, even for adults. This regulation is essential in focusing society's attention to the fact that while minors may work at many jobs at age fourteen, and may work at most jobs at age sixteen, certain occupations are so clearly dangerous, even for adults, that they should be only performed by mature adults.

This 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 because it is needed to protect the health, safety, and welfare of minors in Virginia by prohibiting the employment of minors in hazardous agricultural occupations, which are inherently dangerous, even for adults.

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 offers clarity and guidance for small businesses that employ minors to work on farms, in gardens, and in orchards. 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.