

Unified Regulatory Plan of the Department of Labor and Industry for State Fiscal Year 2023

Prepared on October 11, 2022

Description of Agency:

The Department of Labor and Industry administers the programs for Virginia Occupational Safety and Health, Registered Apprenticeship, Boiler and Pressure Vessel Safety, and Labor and Employment Law. Acting through the Commissioner, the Department is authorized to adopt regulations necessary and incidental to the performance of duties or execution of powers conferred by Title 40.1 of the Code of Virginia. The Department operates under the supervision of the Virginia Secretary of Labor.

Title of Proposed Regulatory Action or Guidance Document Regulation Governing On-The-Job Training Programs or Other Training Programs - 16 VAC 15-60	
Brief Overview An action that is currently in the Proposed Stage and is awaiting approval by the Governor. This regulation is required by amended Va. Code 40.1-28-10.A.2, which directs the Commissioner of the Department of Labor and Industry to set regulations to provide standards for on-the-job training or other training programs that can use the training wage provided for in the law. This is currently an emergency regulation in place since May 2020 and was set to expire on October 30, 2022. The emergency regulation was approved by the Governor's Office (9/21/22) for an extension with an April 29, 2023 expiration date in order to complete the regulatory process for a final regulation.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	
Expected Date	April 29, 2023

Title of Proposed Regulatory Action or Guidance Document Adoption of VDOE Pharmacy Technician High School Course Guidelines

Brief Overview	
DOLI is pursuing adoption of a permanent regulation specifically applicable to VDOE CTE Pharmacy Technician I and II courses pursuant to Va. Code §40.1-89 . Given the current Clinical Experience for the work based learning framework offered in the Virginia schools, adequate safeguards need to be in place to protect high school children under the age of 18 while working with prescription drugs that could be considered dangerous, poisonous or injurious to the health of the child.	
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	
Expected Date	December 15, 2022

Title of Proposed Regulatory Action or Guidance Document	
Revocation of Virginia Confined Space Standard for the Telecommunications Industry - 16 VAC 25-70	
Brief Overview	
The standard is derived from a Bell Systems manual that is now out of date and not easily available for employer's use. Existing federal identical OSHA standards 29 CFR 1910.268 and 29 CFR 1910.146 provide equivalent protection for employees.	
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This Virginia standard is covered by federal OSHA standards.
Expected Date	June 1, 2023

Title of Proposed Regulatory Action or Guidance Document	
Amendments to Construction Industry Standard for Sanitation - 16 VAC 25-160	

Brief Overview		
The Department will recommend to the Safety and Health Codes Board that the portion of this regulation dealing with toilet and handwashing facilities be retained. 16VAC160-10(c)(1) requires that "One toilet and one handwashing facility shall be provided for each 20 employees or fraction thereof," The equivalent federal standard decreases the amount of such facilities that are available as the size of the construction site increases. The remaining provisions of this standard are identical or equivalent to federal OSHA standard 29 CFR 1926.51 and could be replaced by the federal standard.		
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component		
Expected Date	June 1, 2023	

Title of Proposed Regulatory Action or Guidance Document		
Deletion of Standard for Boiler and Pressure Vessel Operator Certification – 16 VAC 25-40		
Brief Overview		
This standard prescribes the standards under which boiler and pressure vessel operators are to be certified if any county, city or town adopts an ordinance requiring those operators to be certified to operate in their locality. In the more than thirty years localities have been able to adopt such an ordinance none have been adopted. The statute authorizing this would need to be deleted or amended to delete the requirement for the Safety and Health Codes Board to have this regulation. The Department is consulting with the Secretary of Labor’s Office about introducing legislation to address this matter. No regulatory changes can be pursued until the statutes are changed.		
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	This unused and unneeded regulation would remove 7 requirements.	
Expected Date	June 1, 2023	
Title of Proposed Regulatory Action or Guidance Document		
Deletion of Maximum Garnishment Amounts – 16 VAC 15-210		

Brief Overview		
This regulation sets out the maximum amount that can be withheld from a paycheck in periods other than the amount prescribed for a weekly wage. It simply uses a multiple of the other period divided by a week. For biweekly pay periods the Code set rate is multiplied by 2; semi-monthly periods are multiplied by 2.16665; etc. This could be included in Code with little additional language and eliminate the need for this regulation. The Department is consulting with the Secretary of Labor's Office about introducing legislation to address this matter. No regulatory changes can be pursued until the statutes are changed.		
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	Eliminating this regulation would remove 3 requirements	
Expected Date	June 1, 2023	

Title of Proposed Regulatory Action or Guidance Document		
Combining Three Separate Public Participation Regulations Into a Single Regulation for the Entire Agency		
Brief Overview		
The Public Participation Guidelines required by the Administrative Process Act are included for the Department of Labor and Industry as a whole as well as for the Safety and Health Codes Board and the Apprenticeship Council. The language is identical except for the names of the separate entities. By adding a definition to the Department of Labor and Industry's guideline that say that it covers all three entities we could eliminate the other guidelines.		
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	Combining the three guidelines would eliminate 22 regulatory sections.	
Expected Date	June 1, 2023	