



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-390
<b>Regulation title</b>	Rules and Regulations for the Enforcement of the Virginia Seed Law
<b>Document preparation date</b>	December 11, 2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### 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 3.2-4001 of Virginia's Seed Law authorizes the Board of Agriculture and Consumer Services (Board) to adopt regulations governing methods of sampling, inspection, and testing of seeds. Additionally, the Board may adopt regulations regarding labeling requirements and prohibiting the sale of certain types of seed.

### 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.*

The agency has determined that this regulation, which adopts many of the methods of inspecting, sampling, and testing, and the application of tolerances that have been adopted by the Association of Official Seed Analysts, a national organization of seed laboratories, is the least burdensome alternative for effectively regulating this industry.

The repeal of this regulation could result in the reduction of the quality of seed products available for sale in the Commonwealth, thereby impacting the ultimate quality of crops, human health, the environment, and competition in the marketplace.

**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.*

---

The agency did not receive any comments during the public comment period following the publication of the Notice of 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 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

---

This regulation assists in ensuring the quality of seed products available for sale in the Commonwealth and, as such, is necessary for the protection of public health and welfare. This regulation is clearly written and easily understood by the regulated industry.

**Result**

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

---

The agency recommends that the regulation should stay in effect without change.

**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 agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

---

The provisions of this regulation continue to be necessary in order to assist in ensuring the accurate labeling and quality of seed products available for sale in the Commonwealth. The agency has not received any complaints or

comments from the public concerning this regulation. The agency has determined that the regulation is not unnecessarily complex and is easily understood by the regulated industry. This regulation does not overlap, duplicate, or conflict with any federal law or any other states law or regulation.

The regulation adopts many of the methods of inspecting, sampling, and testing, and the application of tolerances that have been adopted by the Association of Official Seed Analysts, which allows the agency's Seed Lab to adjust its operation to reflect the most current nationally-accepted methods of inspecting, sampling, and testing. Additionally, the agency has determined there are no changes to technology, economic conditions, or other factors that have occurred that necessitate amendments to this regulation.

### Family impact

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

---

This regulation has no impact of the institution of the family and family stability.