



[townhall.virginia.gov](http://townhall.virginia.gov)

## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	2 VAC 5-240
<b>VAC Chapter title(s)</b>	Rules and Regulations for Enforcement of the Grain Handlers Law
<b>Date this document prepared</b>	September 15, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

Section 3.2-109 of the Code of Virginia (Code) establishes the Board of Agriculture and Consumer Services (Board) as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-4324 of the Code authorizes the Board to establish rules and regulations relating to the handling of grain in the Commonwealth for resale including weighing, weighing devices, grading, grading equipment, the preservation period for grain samples, and record keeping.

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

The agency has determined that no viable alternatives exist to achieve the purpose of this regulation. This regulation, as required by the Code, establishes procedures by which grain is weighed, graded, and accounted for and assists in ensuring the fair and equitable treatment of grain sellers. The regulation is effective and being administered in the most efficient and least burdensome manner.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Virginia Farm Bureau Federation (VFBF)	This is clearly an important code section for the agriculture industry and impacts nearly all row crop operations in the Commonwealth. After review of the section as currently published, we have found 2 VAC 5 – 240 to be sufficient to protect the health and safety of farmers, members of the grain supply chain, and members of the public. VFBF has no recommended changes for 2 VAC 5 – 240.	The agency appreciates the commenter's feedback and participation in the periodic review of this regulation.

The agency did not form an informal advisory group to assist in this periodic review.

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

This regulation protects the economic welfare of grain sellers by ensuring that grain sold to handlers is accurately weighed, graded, and accounted for assuring the fair and equitable treatment of grain sellers. The regulation is clearly written and easily understood by the regulated industry.

## Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

---

The agency recommends that this regulation stay in effect without change because it is effective in assuring the fair and equitable treatment of grain sellers.

## Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

---

The agency has determined that this regulation continues to be necessary and should remain in effect without change. The agency received one comment regarding the regulation, and it supported the regulation. The agency has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The agency last conducted a periodic review of the regulation in 2015, and the agency has determined that no changes in technology, economic conditions, or other factors have occurred that necessitate amendments to the regulation. The agency continues to believe the current regulation is the least burdensome and intrusive alternative for the required regulation of the grain industry.