



Fast Track Proposed Regulation Agency Background Document

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| Agency name | Virginia Department of Agriculture and Consumer Services |
| Virginia Administrative Code (VAC) citation | 2 VAC 5-180 |
| Regulation title | Rules and Regulations Governing Pseudorabies in Virginia |
| Action title | Amends 2 VAC 5-180 based on recommendations by the Attorney General's Government and Regulatory Reform Task Force |
| Date this document prepared | January 18, 2008 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The Rules and Regulations Governing Pseudorabies in Virginia is being amended to update a document incorporated by reference. The version of the "Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards" will be updated from the January 1, 1998 version to the November 1, 2003 version. Additionally, the regulation is being amended to insert language permitting the filing of documents electronically.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On December 6, 2007, the Board of Agriculture and Consumer Services adopted the proposed amendments to 2 VAC 5-180, Rules and Regulations Governing Pseudorabies in Virginia.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Section 3.1-724 states that the Board of Agriculture and Consumer Services and the State Veterinarian shall have the authority, and that it shall be their duty to establish rules and regulations to protect domestic animals and poultry from disease.

Section 3.1-726 authorizes the Board of Agriculture and Consumer Services to adopt regulations pertaining to the reporting requirements for contagious and infectious diseases of livestock and poultry in Virginia.

Section 3.1-730 mandates that the Board of Agriculture and Consumer Services or the State Veterinarian give and enforce directions and prescribe rules and regulations as to separating, feeding, and caring for diseased or exposed animals or poultry as shall be necessary to prevent the animals or poultry affected with disease, or capable of communicating disease, from coming in contact with other animals or poultry not affected.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Amendments to the regulation are those which have been recommended by the Attorney General's Government & Regulatory Reform Task Force. These amendments will allow for the electronic registration of swine dealers doing business in Virginia, providing a more expedited and user-friendly protocol for such registration than what is allowed by the current regulation. Additionally, the amendments will update the reference to the "Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards" to reflect the current version of those standards.

The regulation is essential to protect the welfare of citizens and Virginia's swine industry by providing the basis for controlling the spread of Pseudorabies in Virginia. Pseudorabies is primarily a disease in swine, and the regulation is necessary to prevent, control the spread of, and eradicate the disease. The requirements of the regulation are essential to minimize any economic impact that would be experienced by the swine industry should this disease not be controlled.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either

house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The proposed amendment is believed to be non-controversial. It is a recommendation of the Attorney General's Government and Regulatory Reform Task Force.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

No substantive changes are being proposed to the existing regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The advantage to the public, Department of Agriculture and Consumer Services, and others is that the requirement for registration of swine dealers doing business in Virginia can be carried out in a more efficient manner, and that the Pseudorabies eradication standards that are adopted by reference will be the most up-to-date version. There are no disadvantages.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that exceed minimum applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that will be particularly affected by the proposed amendment.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The flexibility of electronic registration, and adopting the most current version of Pseudorabies eradication standards will have no adverse impact on small business. These amendments will simplify registration requirements as outlined in the current regulation, and will ensure that the eradication standards in effect in Virginia are the most current, providing greater protection of Virginia’s swine industry.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

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| Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures | None. There will be no ongoing expenditures related to this action. |
| Projected cost of the regulation on localities | There are no costs to localities. |
| Description of the individuals, businesses or other entities likely to be affected by the regulation | Any swine dealer doing business in Virginia, livestock markets, swine producers and swine slaughter facilities are likely to be affected by this regulation. |
| Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. | The entities affected by this regulation are estimated to be 458 livestock dealers, 31 livestock markets, 855 swine producers and 20 swine slaughter facilities. |
| All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. | There should be no costs to the affected individuals, businesses or other entities. |

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

This regulation is being amended to provide for electronic registration of swine dealers doing business in Virginia, and to update the version of the Pseudorabies eradication standards that are adopted by reference. Such electronic registration is considered a less burdensome and intrusive alternative than what is currently allowed by the regulation. Additionally, the amendment will update references to United States Department of Agriculture (USDA) standards to reflect the current version of those standards. Allowing electronic registration and making correct references to the USDA standards will continue to achieve the intended purpose of the regulation and possibly even expedite registrations. No additional alternatives to the proposal were considered.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Unless otherwise discussed in this document, the current regulation has no impact upon families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| 20 | N/A | Feeder pigs being shipped, sold, loaned, leased or traded in Virginia must: 1. Originate from a farm in | Replace the date of “January 1, 1998” with the date of “November 1, 2003”, and insert “(November 1, 2003)” following the second and third references to the Cooperative |

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| | | <p>a State III, Stage IV or State V state/area as specified by the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards published by the U.S. Department of Agriculture (January 1, 1998);</p> <p>2. Originate from a farm in a Stage III, Stage IV or Stage V state/area as specified by the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards;</p> <p>Producers are exempt from the requirements of subsections C, D, and E of this section while Virginia is designated as a Stage IV or State V state as specified by the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards.</p> | <p>State-Federal-Industry Pseudorabies Eradication Program Standards.</p> |
| 30 | N/A | <p>Breeder swine being shipped, sold, loaned, leased or traded in Virginia must originate directly from a Stage IV or Stage V state/area as specified by the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards;</p> | <p>Insert "(November 1, 2003)" following the reference to the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards.</p> |
| 50 | N/A | <p>Any person exhibiting swine shall assure that they originate directly from a Stage IV or Stage V state/area as specified by the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards;</p> | <p>Insert "(November 1, 2003)" following the reference to the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards.</p> |
| 60 | N/A | <p>All slaughter establishments doing business in Virginia shall cooperate with the State Veterinarian in the annual testing pursuant to the Cooperative State-Federal-Industry Pseudorabies</p> | <p>Insert "(November 1, 2003)" following the reference to the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards.</p> |

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| | | Eradication Program Standards | |
| 80 | N/A | The Virginia Board of Agriculture and Consumer Services delegates to the State Veterinarian the authority to approve additional herd cleanup plans that meet the requirements of the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards | Insert "(November 1, 2003)" following the reference to the Cooperative State-Federal-Industry Pseudorabies Eradication Program Standards. |
| 120 | N/A | Every swine dealer doing business in Virginia and his agents shall be registered with the State Veterinarian; each shall make application for registration on forms provided by the State Veterinarian and each shall renew his registration no later than March 1 of each even-numbered year thereafter. | Following the first sentence in subsection A, insert "Registrations may be filed electronically in a manner specified by VDACS, including, but not limited to, electronic mail or by completing any forms provided online by VDACS." |