



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-120
Regulation title	Rules and Regulations Governing the Recordkeeping by Virginia Cattle Dealers for the Control or Eradication of Brucellosis of Cattle
Action title	Proposal to revise 2VAC-5-120, providing updated language with respect to disease eradication efforts and animal disease traceability
Date this document prepared	April 16, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The planned regulatory action covers recordkeeping by Virginia's cattle dealers and permanent animal identification that facilitates animal disease traceability. The intent of the planned action is to update and enhance requirements concerning animal disease traceability and to ensure that state regulations comply with related federal requirements recently issued by the United States Department of Agriculture. The expected amendments to the current regulations will provide for a timely and accurate tracing of animal disease outbreaks to intrastate and out-of-state sources and will maintain and strengthen Virginia's reputation as a reliable source of animals for both domestic and international markets.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a

specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

This regulation is promulgated pursuant to Code of Virginia as detailed below (parts of each section provided in quotes):

- § 3.2-6001 – **Protection of livestock and poultry** - “The Commissioner, the Board, the State Veterinarian and all other veterinarians within the Commonwealth shall use their best efforts to protect livestock and poultry from contagious and infectious disease.”
- § 3.2-6002 – **Contagious and infectious diseases; prevention and eradication** - “The State Veterinarian shall take such measures as may be necessary to prevent the spread of and eradicate contagious and infectious livestock and poultry diseases. The Board may adopt regulations as may be necessary to effectuate the purposes of this article. The Board and Commissioner are also authorized to make the regulations adopted under this article conform, insofar as practicable, to those regulations adopted under federal statutes governing animal health.”
- § 3.2-6016 – **Altering disease control identification of livestock or poultry** – “It shall be unlawful for any person to, unless in accordance with regulations adopted pursuant to this article, alter, deface, change from one animal to another, mutilate, substitute, remove, misrepresent, or otherwise interfere with any tag, brand, tattoo, mark, or other identification adopted or used by any county, the Commissioner, the Board, the U.S. Department of Agriculture, or any other state for the identification of any animal in the Commonwealth for the purpose of controlling or eradicating disease.”

Under federal law, implementation of some of the requirements of this regulation is now mandatory. Effective March 11, 2013, the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) has added a new section to Title 9 of the *Code of Federal Regulations* (9 CFR) which requires that breeding cattle and certain other livestock moving interstate be officially identified and accompanied by an interstate certificate of veterinary inspection (ICVI) or other documentation, with some exemptions.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed regulatory action is essential to protect the health, safety, and welfare of citizens. Protecting the health of livestock and poultry is necessary for three reasons: (1) to enhance the health and well-being of Virginia livestock and poultry; (2) to promote the financial interests of the livestock producers (disease can cause significant losses to the producer, through death loss, decreased production, and reduction of market options); and (3) to enhance human health in cases of zoonotic (shared human and animal pathogens) disease transmission. Finally, this proposed action is expected to address the need for complying with USDA's recently issued rule on animal disease traceability.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

It is proposed that the existing regulation be amended to remove the specific language associated with brucellosis and set forth guidelines for cattle that need to be identified and recorded. It is intended that proposed changes to this regulation will be in concert with those for 2VAC 5-60, Rules and Regulations Governing the Operation of Livestock Markets.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

An alternative to the proposed regulatory action would be to request voluntary compliance by all cattle dealers to officially and permanently identify cattle offered for sale in their markets. However, there is a time and financial cost to applying permanent identification. As long as some cattle dealers do not provide this service, there is the potential for an inequitable situation. In order to fulfill the statutory mandate of the State Veterinarian, it is necessary to have effective animal disease traceability.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website, www.townhall.virginia.gov, or by mail, email, or fax to Dr. Charles C. Broaddus, 102 Governor Street, Richmond, VA 23219; phone: (804) 786-2483; fax: (804) 371-2380; e-mail: charles.broaddus@vdacs.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

An advisory panel will be appointed. Contact Dr. Charles C. Broaddus if you're interested in serving on the panel. He may be reached at 102 Governor Street, Richmond, VA 23219; phone: (804) 786-2483; fax: (804) 371-2380; e-mail: charles.broaddus@vdacs.virginia.gov.

Family impact

Assess the potential 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.

This regulatory action will have no impact on the institution of the family or family stability.

Periodic review/small business impact review result

If this NOIRA is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) 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. In addition, please include, pursuant to Code of Virginia § 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.

This NOIRA is the result of a periodic review that ended November 26, 2012. There was one public comment received during the Notice of Periodic Review (listed below). This regulation is necessary for the protection of public health, safety, and welfare because it helps safeguard the health of livestock and poultry, which can directly impact human health. There is a continued need for this regulation to help establish effective animal disease traceability to prevent the spread and eradication of contagious and infectious livestock and poultry diseases. The comment from the public was supportive of amending the regulation. The regulation is designed to achieve its intended objective in the most efficient manner, be clearly written, easily understandable, and not complex. This regulation does not duplicate other laws or regulations, but should be amended to ensure no conflicts with the new USDA requirements for animal disease traceability. This regulation was last evaluated in 2000 and since then there have been many changes that impact this industry.

Commenter	Comment
<p>Tony Banks, Virginia Farm Bureau Federation</p>	<p>This regulation governs recordkeeping requirements by cattle dealers for the control or eradication of Brucellosis in cattle. Brucellosis has effectively been eradicated in Virginia. Other states require Brucellosis testing of non-terminal bovine for interstate movement. The USDA is developing federal regulation concerning animal disease traceability. Virginia will likely need to require some level of recordkeeping for multiple animal diseases/health certificates within the market chain in order to comply with future USDA regulation and to maintain access to interstate terminal and non-terminal livestock markets. VDACS should consider whether it is more prudent to revise its regulation now or wait until USDA completes its rulemaking.</p>