



Economic Impact Analysis Virginia Department of Planning and Budget

2 VAC 5-400 – Rules and Regulations for the Enforcement of the Virginia Fertilizer Law Virginia Department of Agriculture and Consumer Services June 13, 2001

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Virginia Department of Agriculture and Consumer Services (VDACS) proposes several amendments in order to make the regulations comply with the Uniform Rules and Regulations of the Association of American Plant Food Control Officials (AAPFCO). According to VDACS, all 50 states traditionally set their regulations to comply with the AAPFCO regulations. The proposed changes include: 1) reduction in the minimum amount of plant food allowed in a product from 18% to 3.0% for chemical fertilizers and 1.5% for organic fertilizers, 2) reducing the assessment (penalty) for deficiencies in secondary and minor elements, 3) allowing fertilizers to be sold by either net volume or net weight, and 4) permitting manufacturers to use and claim on their labels new forms of fertilizer ingredients such as slowly available plant nutrients.

Estimated Economic Impact

The proposed amendments will reduce the minimum amount of plant food allowed in a product from 18 percent to 3.0 percent for chemical fertilizers and 1.5 percent for organic fertilizers. According to VDACS, less-concentrated fertilizers are easier and safer for consumers to use. Also, more frequent applications of less-concentrated fertilizers enable the soil to absorb more of the applied fertilizer and reduce environmentally harmful runoff of unabsorbed nutrients. VDACS has not enforced the 18% minimum concentration for several years; less-concentrated fertilizers have been widely available in the Commonwealth. Thus, this proposed change would not likely have a large effect. If there are any potential producers and sellers of less-concentrated fertilizers who have not and would not have sold their products in Virginia due to the current regulations, then this proposed change may increase the variety and quantity of less-concentrated fertilizers on the market. In this case, the public may benefit by having additional choices and possibly lower prices due to increased competition.

In order to match the AAPFCO regulations, VDACS proposes to reduce the assessment (penalty) for deficiencies in secondary and minor elements. Under the current regulations, for a deficiency in a secondary micronutrient element, an assessment of \$1.00 per ton, plus three times the commercial value of the shortage is paid by the manufacturer, dealer, or agent to the ultimate user of the fertilizer. The agency proposes to reduce the assessment to \$1.00 per ton, plus two times the commercial value of the shortage. Thus, the cost to the manufacturer, dealer, or agent for selling fertilizer with deficiencies in secondary and minor elements, whether accidental or intentional, is lessened. The lower cost of selling deficient fertilizer may reduce the producer's incentive to maintain investment in quality control, and may encourage a less scrupulous manufacturer or dealer to intentionally sell fertilizer with lower nutrient levels than guaranteed. On the other hand, many or most producers may find the potential loss of product reputation due to the potential finding of deficiencies to be high enough cost to maintain high quality control standards and to avoid intentionally including lower nutrient levels than guaranteed. Data is not available to determine whether the lower assessment for deficient fertilizer will significantly affect the behavior of manufacturers, dealers, and agents.

Under the current regulations, fertilizer labels must include a statement of net weight. The proposed amendments change the label requirement for “net weight” to “quantity statement.” Thus, fertilizers could be sold by net volume, which may be more useful information than weight for liquid fertilizer, for example. By increasing the flexibility on how to label quantity on the label, while maintaining the requirement that quantity is accurately labeled, this proposed change appears to be beneficial without introducing new cost.

The proposed regulations will allow manufacturers to use and claim on their labels new forms of fertilizer ingredients, such as slowly available and organic forms of nitrogen, that are deemed to be legitimate plant nutrients by AAPFCO. In practice, VDACS has permitted fertilizer labels that include these new forms of fertilizer ingredients for several years. Thus, similar to the less-concentrated fertilizers, this proposed change would not likely have a large effect. If there are any potential producers and sellers of fertilizers who have not and would not have produced and sold their products due to the current regulations, then this proposed change may increase the variety and quantity of less-concentrated fertilizers on the market. In this case, the public may benefit by having additional choices and possibly lower prices due to increased competition.

Businesses and Entities Affected

The proposed amendments potentially affect the approximately 35 members of the fertilizer industry that do business in Virginia, plus potential entrants, and consumers of fertilizer.

Localities Particularly Affected

The proposed changes potentially affect all localities in the Commonwealth.

Projected Impact on Employment

The proposed amendments will not likely significantly affect employment.

Effects on the Use and Value of Private Property

The proposal to reduce the assessment for deficient secondary and minor elements may have a small negative effect on the value of a small number of farmers' property, and may have a small positive effect on the value of a small number of producers of fertilizer. If there are any current or potential producers of fertilizer that have not sold products in Virginia due to the

current regulations stated prohibition on fertilizers with plant food concentration below 18 percent or the prohibition on the use and claim of new forms of fertilizer ingredients, despite the agency's lack of enforcement, then the value of these firms may increase and some current producers may have lower profits due to increased competition.