



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-450
Regulation title	Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law
Document preparation date	December 13, 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.

This regulation was promulgated by the Board of Agriculture and Consumer Services (Board) pursuant to Section 3.1-188.35 of the *Code of Virginia* (Code). Chapter 860 of the 2008 Acts of Assembly, which recodified Title 3.1 of the Code, deleted this section, but provided in its third enactment clause that regulations in effect on the effective date of the act shall continue in effect to the extent that they are not in conflict with the act and shall be deemed to be regulations adopted under the act.

Additionally, this regulation contains a provision that prohibits the movement of European black currant plants into Virginia. Section 3.2-703 of the Code authorizes the Board to quarantine the Commonwealth when it determines that such action is necessary to prevent or slow the spread of a pest into the Commonwealth.

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.

This regulation provides an exemption from registration for separate sales locations when the parent nursery is properly registered, provided that each sales location has a copy of the nursery's registration certificate. This regulation clarifies that certain plants are deemed nursery stock and are subject to the certification requirements of the Virginia Plant and Plant Products Inspection Law (Va Code § 3.2-3800 *et seq.*). The regulation also provides conditions under which these plants may be eligible for certification. Additionally, this regulation contains a provision that prohibits the movement of European black currant plants into Virginia.

The agency has determined that each of these provisions continues to be necessary to assist in protecting the agricultural, horticultural, forest resources, and other interests of the Commonwealth from plant pests. The repeal of this regulation could result in the Commonwealth's exposure to plant pests that would pose both economic and environmental harm.

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.

The agency has determined that this regulation continues to be necessary to assist in protecting the agricultural, horticultural, forest resources and other interests of the Commonwealth from plant pests, and therefore is necessary for the protection of the public health and welfare. This regulation is clearly written and easily understandable.

Result

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

The agency recommends that this regulation 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 agency has determined that this regulation continues to be necessary to assist in protecting the agricultural, horticultural, forest resources, and other interests of the Commonwealth from plant pests and is not excessively burdensome on small businesses. The agency has not received any complaints or comments from the public regarding this regulation. The agency has determined that this regulation is not unnecessarily complex and is easily understood by the regulated industry. This regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. The agency has determined that no changes to technology, economic conditions, or other factors have occurred that would necessitate a change to the 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 on the institution of the family and family stability.