



townhall.virginia.gov

Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-410
Regulation title	Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law
Date	May 5, 2018

This information is required pursuant to Executive Order 17 (2014).

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.

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

Section 3.2-3701 of the Code authorizes the Board to adopt all regulations necessary to carry out the provisions of this chapter. Such regulations may include (i) investigational allowances; (ii) definitions; (iii) records; (iv) manufacturing practices; and (v) distribution and storage of liming material.

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.

The regulation establishes (i) labeling requirements related to fineness of lime and minimum calcium carbonate equivalent, and (ii) investigational allowances and associated penalties. The regulation also establishes that the methods of analysis used shall be those published by AOAC International in the 18th edition of "Official Methods of Analysis of AOAC International." The regulation requires the agency to report results of official samples to registrants. The regulation assists in ensuring that agricultural liming material sold in Virginia will effectively neutralize soil acidity within the growing season of the crop being grown, thereby assisting in the protection of the welfare of Virginia's agriculture industry. The regulation provides clarity for manufacturers and information needed by consumers.

The alternative to this regulation is no regulation, which could result in minimum standards based on different standards and liming materials that would be labeled inconsistently. The agency has determined that this regulation is the least burdensome alternative for effectively regulating this industry. The repeal of this regulation could result in poor quality and improperly labeled liming materials available for sale in the Commonwealth, thereby impacting the quality and quantity of crops, human health, the environment, and competition in the marketplace.

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.

No public comments were received following the publication of the Notice of Periodic Review on February 19, 2018. An informal advisory group was not formed for the purpose of assisting this periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation assists in ensuring the quality of liming materials available for sale in the Commonwealth and, as such, is necessary for the protection of public health and the economic welfare of Virginia's agriculture industry. The regulation is clearly written and easily understood by the regulated industry.

Result

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

The agency recommends that the regulation should stay in effect without change because it assists in preventing the sale of poor quality and improperly labeled liming materials in the Commonwealth.

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 basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The provisions of this regulation continue to be necessary in order to assist in ensuring the proper oversight of the sale of liming materials in the Commonwealth. The agency has not received any complaints or comments from the public concerning this regulation. The agency has determined that the regulation is not unnecessarily complex and is easily understood by the regulated industry. This regulation does not overlap, duplicate, or conflict with any federal law or any other state law or regulation. Additionally, the agency has determined that there are no changes to technology, economic conditions, or other factors that have occurred that necessitate amendments to this regulation. The agency has determined that this regulation is the least burdensome alternative for effectively regulating participants in this industry, including small businesses.