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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	2 VAC 5-410
<b>VAC Chapter title(s)</b>	Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law
<b>Date this document prepared</b>	October 3, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

"Board" means the Board of Agriculture and Consumer Services.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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 Agriculture Liming Materials Act (Va. Code § 3.2-3700 et seq.) 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 to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

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 agency has determined that this regulation is the least burdensome alternative for effectively regulating this industry. Without this regulation, the result could be 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

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

An informal advisory group was not formed for the purpose of assisting in this periodic review.

Commenter	Comment	Agency response
Virginia Farm Bureau Federation (VFBF)	We believe the current regulations are sufficient. The regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable. VFBF has no	The agency appreciates the commenter's participation in this periodic review.

	recommended changes for 2VAC5-410 but reserves the right to provide additional comment should regulatory changes be proposed.	
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**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) 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.

**Decision**

*Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

The agency has determined 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**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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, discuss why the agency’s decision, consistent with applicable law, will 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.