



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC5-150
<b>Regulation title</b>	Rules and Regulations Governing the Transportation of Companion Animals
<b>Action title</b>	Amends 2 VAC5-150 based on recommendations by the Attorney General's Government and Regulatory Reform Task Force
<b>Date this document prepared</b>	January 18, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

The Rules and Regulations Governing the Transportation of Companion Animals are being amended to make certain definitions within the regulations consistent with corresponding definitions within the Code of Virginia.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On December 6, 2007, the Board of Agriculture and Consumer Services adopted the proposed amendments to 2 VAC 5-150, Rules and Regulations Governing the Transportation of Companion Animals.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

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The Board has statutory authority to promulgate this regulation by reason of the authority granted under Section 3.1-796.67 of the Code of Virginia.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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Amendments to the regulation are those which have been recommended by the Attorney General's Government & Regulatory Reform Task Force. These amendments will make the definitions of Companion animal, Dealer, Exhibitor, and Primary enclosure consistent with corresponding definitions contained in the Code of Virginia.

The regulation is essential to protect the welfare of companion animals being transported within the Commonwealth of Virginia. The requirements of the regulation are essential to minimize any suffering of companion animals while those animals are being transported within the state.

**Rationale for using fast track process**

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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The proposed amendments are believed to be non-controversial. It is a recommendation of the Attorney General's Government and Regulatory Reform Task Force.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

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No substantive changes are being proposed to the existing regulation.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

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The advantage to the public, Department of Agriculture and Consumer Services, and others is that the definitions for Companion animal, Dealer, Exhibitor, and Primary enclosure will be consistent with the definitions contained in the Code of Virginia. There are no disadvantages.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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There are no requirements that exceed minimum applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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There are no localities that will be particularly affected by the proposed amendment.

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum:*

- 1) the establishment of less stringent compliance or reporting requirements;*
- 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements;*
- 3) the consolidation or simplification of compliance or reporting requirements;*
- 4) the establishment of performance standards for*

*small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The regulatory flexibility analysis does not apply.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	None. There will be no ongoing expenditures related to this action.
<b>Projected cost of the regulation on localities</b>	There are no costs to localities.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Any carrier, dealer, exhibitor, pet shop, auction sale, pound, city, county, animal control officer and humane society are likely to be affected by this regulation. The regulation does not apply to the transport of pet animals by private citizens through noncommercial means.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The entities affected by this regulation are estimated to be approximately 2,500 carriers, dealers, exhibitors, pet shops, auction sales, pounds, cities, counties, animal control officers and humane societies. Of these entities, approximately 90 percent would be considered small businesses.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	None.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

This regulation is being amended to make the definitions of Companion animal, Dealer, Exhibitor, and Primary enclosure consistent with those definitions contained in the Code of Virginia.

**Family impact**

*Please assess the 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.*

Unless otherwise discussed in this document, the current regulation has no impact upon families.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10	N/A	<p>"Companion animals" means domestic and feral dogs, domestic and feral cats, monkeys, guinea pigs, hamsters, rabbits, exotic animals and exotic and native birds. Game species shall not be considered companion animals for the purposes of this chapter.</p> <p>"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges or barter companion animals. Any person who transfers companion animals in the regular course of business as a common carrier shall not be considered a dealer.</p>	<p>"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.</p> <p>"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier, or (ii) any person or organization whose primary purpose is to find permanent adoptive homes for companion animals.</p>

		<p>"Exhibitor" means any person exhibiting any animals to the public, and such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals, whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in state and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibits intended to advance agricultural arts and sciences.</p> <p>"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment or hutch.</p>	<p>"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the United States Department of Agriculture. Such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals, whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in state and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibits intended to advance agricultural arts and sciences.</p> <p>"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.</p>
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