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Fast-Track Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation(s)	2 VAC 5-141
Regulation title(s)	Health Requirements Governing the Admission of Agricultural Animals, Companion Animals, and Other Animals or Birds Into Virginia
Action title	Amendments to simplify, clarify, and increase compliance with importation requirements necessary to protect Virginia's animal agriculture industry.
Date this document prepared	December 8, 2017 (revised July 17, 2018)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation.

2 VAC 5-141 *et seq.* outlines requirements for animals entering Virginia from other states or countries. The requirements prescribed by this regulation are similar to import requirements in the other 49 states and are in place to protect Virginia's animals and animal industries from animal health and disease threats. The proposed changes are intended to clarify, simplify, and increase the ability of animal importers to comply with this regulation while maintaining those requirements that are necessary to protect Virginia's animal agriculture industry.

The changes include: updating terms and definitions, including changing all references from “companion animals” to “pet animals” to better align with the language used in Va. Code § 3.2-5902; amending the definition for “permit” to enable the use of electronic permits going forward; granting the State Veterinarian the authority to waive import requirements for animals from disaster-affected areas; clarifying the import requirements for poultry and eliminating the need for a “poultry approval number”; requiring trichomoniasis testing for all bulls of a certain age prior to importation into Virginia; and requiring that a horse that either originated in or has passed through a region where contagious equine metritis is known to exist and that is issued a permit to enter Virginia be permanently identified with an affixed or implanted device bearing a unique identification number.

The proposed language includes a requirement that individuals importing animals into Virginia obtain a permit. The permit must be provided by an accredited veterinarian practicing in the state of origin, who will enter the required information into an online portal. A permit may be denied if all requirements, including those for official identification and certain disease testing, are not met. There is no cost related to this permit, and the online portal will produce a certificate of veterinary inspection to accompany the animal during travel. This system is already in use in Virginia on a voluntary basis, with approximately 25% of animal imports currently being accompanied by an electronic permit. VDACS plans to fully replace the current paper system with the electronic system. The paper system does not provide adequate protection against the introduction of diseases into Virginia’s animal population due to the fact that the documents generally arrive after the animal has already entered Virginia. Using an electronic permit system will enhance the protection of Virginia’s animals from diseases that could be transmitted from imported animals.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

CVI means Certificate of Veterinary Inspection, which is an official document that may be in an electronic format; certifies the inspection of animals; and is completed and signed by an accredited veterinarian approved by the animal health official of the state of origin, a veterinarian in the employ of the state of origin, or a veterinarian in the employ of the Veterinary Services Division, Animal and Plant Health Inspection Services, U.S. Department of Agriculture.

USDA means the U.S. Department of Agriculture.

VDACS means the Virginia Department of Agriculture and Consumer Services.

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 7, 2017, the Board of Agriculture and Consumer Services adopted amendments to 2 VAC 5-141, Health Requirements Governing the Admission of Agricultural Animals, Companion Animals, and Other Animals or Birds Into Virginia.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including:

1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person'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.

Section 3.2-5902 of the Code authorizes the Board to adopt regulations as may be necessary to establish the health of certain pet animals imported into Virginia.

Section 3.2-6001 of the Code authorizes the Board to adopt regulations in coordination with other states and the USDA to protect the livestock and poultry of Virginia.

Section 3.2-6002 of the Code authorizes the Board to adopt regulations as may be necessary to prevent the spread of and eradicate infectious or contagious diseases in livestock and poultry in Virginia.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.

The current regulations concerning the importation of animals into Virginia need minor revisions to align them with the current priorities and methodology of state, federal, and international animal disease and marketing programs. The proposed amendments will also align Virginia's regulation with the current federal animal movement requirements as well as those of other states, ensuring that Virginia animal producers and owners are not placed at a disadvantage in interstate and international trade and protecting the continued viability of Virginia's animal industries, thereby protecting the economic welfare of the industries. As Virginia is a net exporter of agricultural animals, these entry requirements are designed to minimize the risk of disease introduction, allow rapid response and control should such introduction occur, and promote unimpeded commerce.

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?

The proposed amendments are noncontroversial changes that are the consensus of many stakeholder organizations. These changes have been discussed with and are supported by the leaders of Virginia's animal agriculture industries.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

The majority of the amendments to this regulation are technical, grammatical, and reformatting changes, such as changing “less than” to “younger than” and capitalizing “Certificate of Veterinary Inspection.” Sections 20 and 30 have been combined and moved in order to streamline the regulation and address concerns from users of the regulation.

“Companion animal” has been replaced throughout the regulation with “pet animal” to align with Va. Code § 3.2-5902, which requires that “pet animals” imported into Virginia enter with a CVI. The animals affected and the requirements have not changed.

Substantive changes include the requirement for a permit for animals imported into Virginia to allow the capturing of electronic movement and identification data; the authority for the State Veterinarian to waive requirements for animals fleeing disaster-affected regions; the elimination of the need for poultry importers to apply for a poultry approval number; the requirement for trichomoniasis testing for imported bulls of a certain age; and the requirement that a horse that either originated in or has passed through a region where contagious equine metritis is known to exist and that is issued a permit to enter Virginia shall be permanently identified with an affixed or implanted device bearing a unique identification number.

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.

The primary advantages of the proposed revisions are the potential for increased compliance with the regulation by simplifying it and the focus on areas that are most effective in mitigating animal disease introduction and resultant losses. Thus, both the public and the agency benefit from the proposed changes. The new permit and bull testing requirements are the responsibility of out-of-state importers of animals into Virginia and should not directly affect Virginia citizens. Bull testing and equine microchip costs are less than \$50.00, and any percentage of that cost that may be passed down to Virginia industry partners by out-of-state shippers is considerably less than the cost of disease treatment or the potential significant economic impact on the agricultural industry from disease introduction. There are no disadvantages to the public or the Commonwealth as a result of the proposed amendments.

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.

Federal regulations concerning the interstate movement of animals are designed to ensure the marketability of animals and animal products internationally and, alone, are not sufficient to fully protect the animal health status of an individual state. The proposed regulation is similar to the regulations in many other states and is designed to provide comprehensive coverage of all animal species of interest. Therefore, the proposed regulation does include animal species and testing requirements that are in addition to those imposed by federal regulations. These additional requirements are intended to safeguard Virginia animal industries and ensure their free and ready access to interstate and international markets.

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.

The proposed regulation should have no impact on localities.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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 agency analyzed alternative regulatory methods and determined that the proposed regulation represents the least burdensome and simplest regulation to achieve the stated goals. These regulations are a crucial component of protecting Virginia’s agriculture industries and companion animal populations from being compromised by the importation of animals with health or other issues. As most of the stakeholders covered by this regulation are small businesses, it is not possible to exempt them from the regulation based on that status.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>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</p>	<p>There are no additional costs to the state to implement the proposed amendments to the regulation.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>The proposed amendments to the regulation will not result in costs to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The proposed regulation will not have a significant impact on individuals, businesses, or other entities dealing in animal importations. The proposed regulation will clarify the entry requirements for such animals.</p>

<p>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. Small business means a business entity, including its affiliates, that:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>According to the latest (2012) census conducted by the USDA, there are approximately 4,042 poultry and egg farms, 20,091 beef cattle farms, 737 dairy cattle farms, 919 swine farms, 2,626 horse farms, 2,870 sheep and goat farms, and 1,391 farms that house other animals in Virginia. However, not all such farms import animals. The majority of these businesses would be considered small.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</p> <p>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>These amendments will not increase costs for any of the affected individuals, businesses, or other entities. Costs associated with new requirements for trichomoniasis testing and microchips for horses quarantined for contagious equine metritis are the responsibility of out-of-state shippers and will not have a direct cost increase for Virginia individuals, businesses, or other entities.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The primary advantages of the proposed revisions are the potential for increased compliance with the regulation by simplifying it and the focus on areas that the agency and industry believe are more effective at mitigating animal disease losses.</p>

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.

Alternatives to the proposal include the following:

Maintaining the regulation in its current form. This alternative is not acceptable. Though the proposed changes are minor, failure to bring Virginia’s animal entry requirements in line with those of other states will compromise Virginia’s animal agriculture sector.

Removing all requirements pertaining to animal importation. This alternative is not acceptable given the considerable economic value of animal industries to the state as well as the value the public places on their pet animals. Were Virginia to eliminate all animal entry requirements, the loss of parity with all other states would in effect make Virginia the prime market for all animals barred entry to other states for health or other reasons, severely compromising Virginia’s agriculture industries and pet animal population.

As most of the stakeholders covered by this regulation are small businesses, it is not possible to exempt them from the regulation based on that status. The agency believes that the proposed regulation is the least burdensome approach to updating Virginia’s animal entry requirements.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-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: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Family impact

Please assess the impact of this 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.

The agency estimates that, overall, the proposed regulatory action will have a neutral impact on family and family stability across the state. The agency recognizes that lack of adequate animal disease control can have a devastating impact on a farm family that depends on the Commonwealth’s protection of its animals in maintaining profitability and economic stability. To the extent that the proposed amendments will provide greater protection for agricultural enterprises, the regulatory action will provide greater financial stability for hundreds of families who depend on agricultural animals for income.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10		Definitions	Strikes definition of “avian,” “companion animal,” and “dairying purposes,” as these terms are not used in the proposed regulation. “Avian” is replaced by “poultry,” which is already defined, and “companion animal” is replaced by “pet

			<p>animal” to align with Va. Code § 3.2-5902.</p> <p>The definition of “Certificate of Veterinary Inspection” has been amended to better identify officials that may issue the certificate. This information was previously found in Section 20.</p> <p>The definitions of “cat,” “dog,” and “other ruminants” have been amended to the singular version to align with the Form, Style and Procedure Manual for Publication of Virginia Regulations.</p> <p>A definition for “NPIP” has been added.</p> <p>The “permit” definition has been amended to allow formats approved by the State Veterinarian.</p>
20		This section outlines various requirements for a CVI for animals imported into Virginia.	Propose to repeal this section. The contents of this section have been added to the sections of the regulation that reference specific species. The general requirement for a CVI for animals imported into Virginia has been added to a new Section 35. These amendments are intended to aid regulants’ use of and, thus, compliance with, the regulation.
30		This section outlines various animal identification requirements for specific species of animals imported into Virginia	Propose to repeal this section. The official identification requirements for each species has been added to the species-specific sections of the regulation.
	35	N/A	This new section establishes the requirement for a permit for all animals imported into Virginia unless exempted by the State Veterinarian. This section also includes the current requirement that all imported animals be accompanied by a CVI.
40		Currently, this section includes restrictions on importation.	Propose to amend the catchline of this section in order to better highlight that this section includes restrictions on importing animals into Virginia.
			<p>The proposed amendments include restrictions on importing any animal exposed to or infected with a reportable infectious disease. This restriction was previously included in Section 20.</p> <p>The proposed amendments will require a permit for all animals and will eliminate the requirement that a person seeking a permit do so by writing the State Veterinarian.</p> <p>The proposed amendments add authority for the State Veterinarian to waive import</p>

			<p>requirements for animals from disaster-affected regions.</p> <p>The proposed amendments also include updated language for restrictions on importing animals from regions affected with Vesicular Stomatitis.</p>
50		<p>This section’s provisions pertain to transporters of animals.</p>	<p>“Companion animal” is replaced by “pet animal” to align with Va. Code § 3.2-5902.</p>
60		<p>Currently, this section includes the term “avian” in its catchline and addresses a mix of poultry and non-poultry bird species. This section also requires that all importers of poultry apply for a poultry approval number.</p>	<p>The proposed amendments revise the catchline to clarify that the section applies only to poultry imported into Virginia.</p> <p>The proposed amendments eliminate the requirement for a poultry approval number. By clarifying the intent that all poultry entering Virginia must submit a federal form VS 9-3 or a CVI, depending on the origin of the birds, testing and health requirements are clarified and captured, making the approval number duplicative. Removal of the need for an approval number lessens the burden on importers who are already required to share the required information through the VS 9-3 or CVI.</p> <p>The proposed amendments strike the exemptions that apply to non-poultry birds only. These exemptions are included in Section 80, as a non-poultry bird is a pet animal pursuant to Va. Code § 3.2-5902.</p>
70		<p>This section outlines the requirements for cattle imported into Virginia.</p>	<p>The proposed amendments add CVI and identification requirements, language indicating the officials who can conduct testing, and a qualification that this section does not construe permission to import animals otherwise prohibited. These items have been moved to this section from the current Sections 20 and 30.</p> <p>The proposed amendments add a requirement that bulls over 18 months of age or non-virgin bulls test negative for trichomoniasis prior to entry into Virginia. Trichomoniasis is a venereal disease of cattle that has been moving east across the U.S. and is now close to the Virginia border. This testing requirement is supported by the Virginia cattle industry and will protect Virginia cattle from this disease and cattle growers from significant economic losses due to disease.</p>
80		<p>This section outlines the requirements for companion</p>	<p>The proposed amendments replaces all instances of the phrase “companion</p>

		animals imported into Virginia.	animal” with “pet animal” to align with Va. Code § 3.2-5902. CVI requirements have been moved here from the current Section 20. Exemptions have been restructured to align with the Form, Style and Procedure Manual for Publication of Virginia Regulations.
90 100 110 120		These sections outline Virginia’s import requirements for goats and sheep, horses, other ruminants, and swine, respectively.	The proposed amendments add CVI and identification requirements, language indicating the officials who can conduct testing, and a qualification that this section does not construe permission to import animals otherwise prohibited. These items have been moved to each of these sections from the current Sections 20 and 30.
130		This section outlines the requirements for primates imported into Virginia.	The proposed amendments add CVI and identification requirements, language indicating the officials who can conduct testing, and a qualification that this section does not construe permission to import animals otherwise prohibited. These items have been moved to this section from the current Sections 20 and 30. Exemptions have been restructured to align with the Form, Style and Procedure Manual for Publication of Virginia Regulations.