



Virginia
Regulatory
Town Hall

Periodic Review and
Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Agriculture and Consumer Services
VAC Chapter Number:	2VAC5-400
Regulation Title:	Rules and Regulations for the Enforcement of the Virginia Fertilizer Law
Action Title:	Amend
Date:	July 7, 2000

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

A regulation that establishes the methods of expressing plant nutrients on the product label of fertilizer containers; minimum guarantees for nutrients; registration requirements; and monetary penalty assessments for deficiencies.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or

discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The regulation is mandated by §3.1-106.4, §3.1-106.7 (C), and §3.1-106.13 (A) of the Code of Virginia (1950), as amended. The sections mandate the establishment of investigational allowances, assessments, definitions, records, manufacturing practices, and the distribution and storage of regulated products prior to final sale. The regulation as currently written meets the minimum requirements of the state mandate.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

The Department published its notice in The Virginia Register of Regulations on April 10, 2000 advertising the opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). The Department received no comment from the public regarding this regulation in response to this notice. An informal advisory group was not formed for the purpose of assisting with this periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The goals of this regulation are to assure that 1) regulated products are properly formulated and labeled; 2) the manufacturer's recommendations for use of these regulated products are in accordance with methods and procedures which enhance the safety, quality and quantity of the food supply for both humans and animals; 3) guidelines are established for the methods used to provide verification of labeling claims for regulated products; and 4) assessments against the manufacturer of a product which is deficient when compared to its guarantee, or which is not properly labeled and thus has caused a negative economic impact on a consumer, are paid to the consumer when he may be identified.

The regulation is effective since it serves to clarify provisions within the code and provides guidance to individuals affected. The regulation provides a uniform system of labeling fertilizer products so consumers can utilize the products without causing harm to themselves, animals or the environment. The regulation also serves to prevent unscrupulous manufacturers from

intentionally marketing products that will cause economic harm to Virginia agriculture and consumers by providing less nutrient value than what is guaranteed on the label.

The regulation is clearly written and easily understood by the individuals and entities affected. However, the agency recommends amendments to improve clarity and to achieve compatibility with legislation approved by the 1994 General Assembly.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The regulation addresses the minimum mandates of §3.1-106.4, §3.1-106.7 (C), and §3.1-106.13 (A) of the Code of Virginia (1950), as amended. The regulation serves to clarify provisions within the code and provides guidance to individuals affected. Due to the nature of the state mandate for this regulation an alternative measure does not exist.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The agency recommends that this regulation be retained with some amendments. The amendments will further clarify language and include changes needed to make the regulation compatible with the 1994 changes to the Virginia Fertilizer Act.

Substance

Please detail any changes that would be implemented.

Amend the following sections to make the language of the regulation compatible with the Act:

§2VAC5-400-10. Definitions.

§2VAC5-400-20. Plant nutrients in addition to nitrogen, phosphorus and potassium.

§2VAC5-400-30. Specialty fertilizer labels.

§2VAC5-400-50. Investigational allowances or tolerances and penalties.

§2VAC5-400-80. Minimum plant food allowed.

Add the following section to make the language of the regulation compatible with the Virginia Fertilizer Act:

§2VAC5-400-90. Sampling and analysis procedures.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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 report, this regulation has no impact upon families.