



Virginia
Regulatory
Town Hall

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Fast Track Proposed Regulation Agency Background Document

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
Action title	Amendments to update obsolete references to the Association of Official Analytical Chemists and its official test methods.
Date this document prepared	March 29, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 proposed amendments to *Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law*, 2 VAC 5-410 *et seq.*, will update obsolete references to (i) AOAC International, formerly the Association of Official Analytical Chemists; (ii) AOAC International's publication, "Official Methods of Analysis of AOAC International"; and, (iii) the relevant methods of analysis included in AOAC International's publication.

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 March 28, 2013, the Board of Agriculture and Consumer Services (Board) adopted amendments to *Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law, 2 VAC 5-410 et seq.*

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) authorizes the Board to adopt regulations in accordance with Title 3.2 of the Code regarding agriculture, animal care, and food.

The Virginia Department of Agriculture and Consumer Services (VDACS) administers the provisions of the Agriculture Liming Materials Act (Act) (Va Code § 3.2-3700 *et seq.*). Section 3.2-3701 of the Act authorizes the Board to adopt regulations necessary to carry out the provisions of the Act.

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.

AOAC International is a provider and facilitator of the development, use, and harmonization of validated analytical methods and laboratory quality assurance programs and services.

This regulation references AOAC International’s official methods of analysis for the components of agricultural liming materials. AOAC International has not amended the substance of the official methods of analysis that are currently cited in Section 40 of 2VAC5-410; however, AOAC International has revised the numbering system it uses for its official methods of analysis. As such, the current regulation cites obsolete method numbers. The proposed amendments will update the method numbers to accurately cite the 18th edition of the “Official Methods of Analysis of AOAC International”.

This 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.

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 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 (i) file notice of the objections 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.

The proposed amendments to this regulation will update obsolete references and are not substantive amendments. As such, we expect this rulemaking to be noncontroversial.

The proposed amendments will update obsolete references to (i) AOAC International, formerly the Association of Official Analytical Chemists; (ii) AOAC International’s publication, “Official Methods of Analysis of AOAC International”; and, (iii) the relevant methods of analysis included in AOAC International’s publication. AOAC International has not amended the substance of official methods of analysis that are cited in Section 40 of 2VAC5-410; however, AOAC International has revised the numbering system it uses for its official methods of analysis, which makes it necessary to amend the relevant references in this regulation.

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.) Please be sure to define any acronyms.

The proposed amendments do not substantively alter 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.

The proposed amendments will clarify for manufacturers of agricultural liming materials which methods of analysis VDACS uses in testing agricultural liming material. This 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.

This regulatory action poses no disadvantage to the public or the Commonwealth.

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.

There are no 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.

No locality will bear a disproportionate material impact from the proposed amendments.

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 agency has determined that this regulation does not unnecessarily burden the regulated industry. The methods of analysis for agricultural liming materials prescribed in this regulation have been thoroughly tested and are nationally recognized. This 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 agency has determined that no alternative regulatory method would better benefit small business.

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>The state will not incur any additional costs as a result of the proposed amendments to this regulation.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>Localities will not incur any additional costs as a result of the proposed amendments to this regulation.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>The regulated entities are distributors of agricultural liming materials. The proposed amendments will not affect their current operations.</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 (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.</p>	<p>71 distributors of agricultural liming materials are currently registered with VDACS. The agency does not collect data from these distributors that would enable the agency to estimate how many of these entities are small businesses.</p> <p>The proposed amendments will not affect the current operations of any of these distributors of agricultural liming materials.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. 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>The proposed amendments will not affect the operations of regulated entities and, as such, the regulated entities will not incur any costs associated with the proposed amendments.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The proposed amendments will replace out of date references in the current regulation. Replacing references to AOAC International’s previous numbering system with references to the current numbering system for the methods of analysis for agricultural liming materials will clarify the regulation for the regulated industry.</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.

The agency has determined that this regulation does not unnecessarily burden the regulated industry. The methods of analysis for agricultural liming materials prescribed in this regulation have been thoroughly tested and are nationally recognized. 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 agency has determined that no alternative would better benefit small business.

Periodic review/small business impact review result

If this fast-track regulation is not the result of a periodic review/small business of the regulation, please delete this entire section.

If this fast-track regulation is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, 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.

The agency did not receive any comments on this regulation during the public comment period of the periodic review. Additionally, the agency has not received any complaints regarding the regulation. The agency has determined that the regulation is clearly written and that the proposed amendments to this regulation will result in its provisions being easily understood. This regulation is not unnecessarily complex and does not overlap, duplicate, or conflict with any federal or state law or regulation.

The regulation has not been amended since AOAC International adopted a new numbering system for its official methods of analysis. The proposed amendments will replace obsolete references with current references to AOAC International's official methods.

These regulations assist 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. As such, the agency has determined that this regulation continues to be necessary.

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.

The proposed regulatory action will not impact the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. 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 list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
40	N/A	This section prescribes the methods of analysis for the chemical components of agricultural liming materials.	The “Form, Style and Procedure Manual for Publication of Virginia Regulations” requires that agencies specify the revision of any document referenced in a regulation. Accordingly, the proposed amendments reference the 18 th edition of the “Official Methods of Analysis of AOAC International”. The proposed amendments replace references to an obsolete numbering system for AOAC International’s official methods of analysis with references to AOAC International’s current numbering system. The amendments also move the contact

			<p>information for AOAC International from Section 50 to Section 40. All of these amendments are intended to clarify the regulation.</p>
50	N/A	<p>This section provides that the Commissioner of the Department of Agriculture and Consumer Services will report the results of official samples. It also provides the contact information for the Association of Official Analytical Chemists.</p>	<p>The proposed amendments move the contact information for AOAC International from Section 50 to Section 40. This amendment is intended to clarify the regulation.</p>