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Exempt Action: Final Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-405
VAC Chapter title(s)	Regulations for the Application of Fertilizer to Nonagricultural Lands
Action title	Amendment to the acreage threshold for the reporting requirement for certain fertilizer applications as required by Ch. 413 of the 2020 Acts of Assembly
Final agency action date	July 21, 2020
Date this document prepared	August 1, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The proposed amendment to 2 VAC 5-405, *Regulations for the Application of Fertilizer to Nonagricultural Lands*, is necessary to align the regulation with legislation enacted by the 2020 Session of the General Assembly. Chapter 413 of the 2020 Acts of Assembly (Senate Bill 849) amended the Virginia Fertilizer Law (Va. Code § 3.2-3600 *et seq.*), in part, to reduce from 100 acres to 50 acres the maximum number of acres of nonagricultural land to which a contractor-applicator or licensee may apply lawn fertilizer or lawn maintenance fertilizer before the applicator is required to submit an annual report to the Department of Agriculture and Consumer Services.

Section 100 of *Regulations for the Application of Fertilizer to Nonagricultural Lands* currently requires contractor-applicators and licensees who apply lawn fertilizer and lawn maintenance fertilizer to more than a total of 100 acres of nonagricultural lands annually to report to the agency the acreage to which

fertilizer was applied the previous year. The proposed amendment to the regulation lowers the reporting threshold from 100 acres to 50 acres to reflect the statutory amendment enacted during the 2020 Session of the General Assembly.

Lowering this reporting threshold will increase the number of contractor-applicators and licensees required to report as well as the total number of non-agricultural acres reported, thereby allowing Virginia to receive more credit toward its Chesapeake Bay Program Phase III Watershed Implementation Plan targets.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

This regulatory action to amend 2 VAC 5-405 is required due to the amendments to the Virginia Fertilizer Law enacted by the General Assembly in Chapter 413 of the 2020 Acts of Assembly.

Statement of Final Agency Action

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 July 21, 2020, the Board of Agriculture and Consumer Services adopted as final this amendment to 2 VAC 5-405, *Regulations for the Application of Fertilizer to Nonagricultural Lands*.