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Regulatory
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Final Regulation Agency Background Document

Agency name	Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5 - 360
Regulation title	Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law
Action title	Amend
Document preparation date	Enter date this form is uploaded on the Town Hall

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apc.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This regulation establishes labeling guidelines for commercial feed manufacturers as to claims for animal nutrients, including guarantees for crude protein, crude fat, crude fiber, minerals and vitamins; ingredients; methods of sampling and analysis; definitions and standards; and application for and cancellation of registrations and licenses. The regulation serves as a reference and instructional guide for manufacturers and provides compliance expectations for products merchandised within the Commonwealth. The proposed amendments delete obsolete sections and clarify the intent and meaning of the regulation making it compatible with changes to the Commercial Feed Law enacted by the 1994 General Assembly.

Statement of agency final 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.

The Board of Agriculture and Consumer Services adopted 2 VAC 5-360, Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law, on September 26, 2003.

Legal basis

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

This regulation is authorized by Section 3.1-828.4(A) of the Code of Virginia (1950) as amended. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+3.1-828.4>). This section authorizes the Board of Agriculture and Consumer Services to promulgate regulations necessary for the efficient enforcement of the Commercial Feed Act. The Commercial Feed Act mandates the establishment of investigational procedures, assessments, definitions, records review, manufacturing practices, distribution and storage of regulated products before final sale. The regulation, as currently written, meets the minimum requirements of the state mandate.

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state law and/or federal law.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The regulation is essential to the health and welfare of Virginia citizens. Commercial feed is the primary source of nutrition for animals produced for human consumption. The economic imperative to the animal producer is that the feed ingredients are of a quality and quantity that ensure the animal's health, growth, and development. Residuals (pesticides/medications) from improper feed ingredients may adulterate the food products used by humans. This regulation helps to ensure a safe food supply.

The regulation assures commercial feed users that the label plainly and conspicuously represents the intended purpose. Label claims represent the percentage of nutrients and ingredients guaranteed and indicate that the feed is free of unsafe drug levels, pesticides and chemical residues. In the absence of this regulation, the commercial feed purchaser would have no

reasonable way to determine if the feed will satisfy the nutritional needs of the animal or that the feed contains what the label claims.

The proposed regulatory action will remove obsolete sections and clarify the intent of the regulation making it compatible with the amendments to the Commercial Feed Law enacted by the 1994 General Assembly.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Amend the following sections to clarify the regulation and make the intent and meaning of the regulation compatible with the changes enacted by the 1994 General Assembly.

- 2VAC5 360-10. Definitions.
- 2VAC5 360-20. Brand Names.
- 2VAC5 360-30. Expression of Guarantees.
- 2VAC5 360-40. Ingredient Statement.
- 2VAC5 360-50. Labeling.
- 2VAC5 360-60. Minerals.
- 2VAC5 360-70. Non-protein nitrogen.
- 2VAC5 360-80. Ingredients.
- 2VAC5 360-90. Methods of sampling and analysis.
- 2VAC5 360-100. Definitions and standards.

Delete the following sections that have been replaced or made obsolete by changes to the statute enacted by the 1994 General Assembly:

- 2VAC5 360-110. Cancellation of registration and license.
- 2VAC5 360-120. Additives
- 2VAC5 360-130. Crude fiber standards.
- 2VAC5 360-140. Application for registration of commercial feeds.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The advantages of the amendment include increased public access to regulated products that are more precisely labeled for the protection of the health of domestic and companion animals. Industry will be able to market products without being burdened by unnecessary regulation. The proposed amended regulation is easier to comprehend by industry and regulators and compliments other states’ regulations, allowing for increased interstate industry competition.

There are no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement in proposed regulation	Proposed change in final regulation and rationale

There have been no changes to the text of the proposed regulation since its publication.

Public comment

Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.

Commenter	Comment	Agency response

The Agency did not receive comment.

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
2 VAC 5-360-10		Defines terms applicable to the approval & registration of feed products as required by the Virginia Commercial Feed Law.	Amends the definitions to accurately reflect either industry standards or those definitions established by Association of American Feed Control Officials (AAFCO).
2 VAC 5-360-20		Specifies and restricts terminology used in commercial feed product labeling.	Clarifies the requirement to establish brand names. The product brand name may not misrepresent the product's ingredients or mislead the consumer.
2 VAC 5-360-30		Specifies units of measure and minimum/maximum percentages as required.	Changes the units of measure for vitamins A, D and E from USP units to International Units per pound. The amendment adds the minimum and maximum guarantees for calcium, salt and sodium.
2 VAC 5-360-40		Allows use of the term "dehydrated" for artificially dried products; specifies the use of "inert mineral matter and charcoal" in products; restricts declaration of vitamin potency of feed or feed supplements.	Removes the requirements for "inert mineral matter and charcoal." The amendment allows for collective terms to be used according to the Official Definitions of Feed Ingredients as published in the Official Publication of the AAFCO.
2 VAC 5-360-50		Specifies type and placement of required information on all labels of commercial feed products offered for sale; reference to prohibited terms.	Designates further labeling instructions for feeds that may be used in further mixing and requires the designation of species and animal class.
2 VAC 5-360-60		Specifies and restricts the amount of and expressions of guarantees for minerals added to commercial feed products.	Establishes the fluorine maximum percentages for breeding and dairy cattle, slaughter cattle, sheep and lambs.
2 VAC 5-360-70		Specifies use of non-protein nitrogen in commercial feeds; specie restrictions; specific guarantee and ingredient listing information.	Designates the uses of non-protein nitrogen in commercial feeds, the requirements for guaranteed analysis and adequate directions for use.
2 VAC 5-360-80		States specific materials that would classify a commercial feed as adulterated to include any whole or viable prohibited noxious-weed seeds or restricted noxious-weed seeds.	Requires the amounts of weed seeds allowed in feeds to be in accordance with the applicable seed regulation (referenced). The proposed amendment states that guarantees for microorganisms and enzymes will be specified on the label and that microorganisms/enzymes will be listed in order of predominance. The amendment prohibits the use of soybean and vegetable

			meals having been extracted with trichlorethylene or other chlorinated solvents. The amendment eliminates sulfurous acids as a significant source of vitamin B1.
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It is proposed that the following sections be deleted to reflect the 1994 amendments to the Commercial Feed Law:

- 2VAC5-360-110
- 2VAC5-360-120
- 2VAC5-360-130
- 2VAC5-360-140

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

Unless otherwise discussed in this report, this regulation has no impact upon families.