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## Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-400
<b>Regulation title</b>	Rules and Regulations for the Enforcement of the Virginia Fertilizer Law
<b>Date</b>	April 15, 2016

This information is required pursuant to Executive Order 17 (2014).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.*

Section 3.2-109 of the Code of Virginia (Code) establishes the Board of Agriculture and Consumer Services (Board) as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-3601 of the Code of Virginia authorizes the Board to adopt all regulations necessary to carry out the provisions of the Virginia Fertilizer Law. Such regulations may include i) investigational allowances, ii) definitions, iii) records, iv) manufacturing practices, and v) distribution and storage of regulated product prior to final sale.

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were*

*rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

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This regulation establishes minimum ingredient levels, labeling requirements, investigational allowances, and procedures for sampling and analysis of fertilizer products and soil amendments. This regulation provides clarity for manufacturers and information needed by consumers. This regulation is the only viable alternative to ensure that fertilizer products and soil amendments available for sale in the Commonwealth are properly labeled and of good quality.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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The agency received no comments during the public comment period and did not form an informal advisory group to assist in this periodic review.

### Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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This regulation assists in ensuring the quality of fertilizer products available for sale in the Commonwealth, thereby impacting the ultimate quality of crops, human health, the environment, and competition in the marketplace. As such, the regulation is necessary for the protection of public health, safety, and welfare. The regulation is clearly written and easily understood by the regulated industry.

### Result

*Please state that the reason why the agency is recommending that the regulation should stay in effect without change.*

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The agency recommends that the regulation stay in effect without change. This regulation is necessary to ensure the quality of fertilizer products and soil amendments and to prevent the sale of improperly labeled fertilizer products and soil amendments in the Commonwealth, thereby impacting the ultimate quality of crops, human health, the environment, and competition in the marketplace.

### Small business impact

*In order to minimize the economic impact of regulations on small business, 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. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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The agency has determined that there is a continued need for this regulation to assist in ensuring the proper oversight of fertilizer sale in the Commonwealth. The agency has not received any complaints or comments from the public concerning this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. This regulation was last amended in 2009. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors that necessitate amendments to this regulation.