



Periodic Review / Retain Regulation Agency Background Document

Agency name	Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-190
Regulation title	Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases
Document preparation date	March 17, 2009

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

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 3.2-6002 of the Code of Virginia provides the predominant authority for this regulation and states that the "Board may adopt regulations as may be necessary" to prevent the spread and eradicate contagious and infectious livestock and poultry diseases. Additional authority is provided by section 3.2-6001, which states "It shall also be the duty of the Commissioner, the Board, and the State Veterinarian . . . in establishing interstate quarantine lines and regulations so as to best protect the livestock and poultry of the Commonwealth against all contagious and infectious diseases".

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.

There are no viable alternatives for achieving the purpose of the existing regulation. The alternative that was considered is to eliminate the regulation and not require poultry companies to submit samples of poultry tissues for analysis or to provide an inventory of their flocks when requested by the State

Veterinarian. The agency rejects this alternative, because the absence of this information would not afford an opportunity for early detection of an infectious or contagious poultry disease, thus allowing disease to spread to healthy flocks. The lack of such a detection system could be devastating to the industry and to the effective control of poultry disease outbreaks.

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.

Commenter	Comment	Agency response

The Department published its notice in The Virginia Register of Regulations on December 8, 2008, advertising the opportunity to comment on this regulation pursuant to Executive Order 36. The Department did not receive any public comments concerning this regulation. An informal advisory group was not formed for the purpose of assisting with this periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation does meet the criteria set out in Executive Order 36, in that:

1. It protects public health, safety and welfare with the least possible intrusion in the lives of citizens;
2. It is based on the best reasonably available scientific, economic and other information;
3. It is designed to achieve its intended objective in the most efficient, cost-effective manner;
4. It is clearly written and easily understandable by the individuals and entities affected; and,
5. It has been developed in accordance with laws relating to the impact of regulations on small businesses.

This regulation provides a disease surveillance system by requiring submission of poultry specimens for diagnostic testing for avian influenza and other infectious and contagious diseases, and by requiring owners to provide an inventory of their poultry flocks when requested by the State Veterinarian.

Food safety is critical to the health, safety and welfare of all citizens of the Commonwealth. Concerns regarding salmonellosis associated with eggs, for example, have received national public attention. In addition, poultry is an inexpensive form of protein, the low price largely based on a plentiful supply of birds. Other infectious and contagious diseases of poultry, some of which may also be infective to humans, can seriously and negatively impact the numbers of poultry available for food due to death losses and decreased reproduction, with a resultant diminished supply of product and increased cost to consumers. Consequently, the regulations providing for early detection of such diseases are crucial for public protection, preventing poultry shortages, and minimizing economic losses.

Result

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

The agency is recommending that the regulation should stay in effect without changes.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

This regulation helps ensure containment and prevention of potential zoonotic disease (diseases transmissible between man and animals). Such diseases could adversely affect families through direct contraction of disease by family members, severe economic loss to the family institution, or a diminished or more costly food supply.