



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-70
<b>Regulation title</b>	Health Requirements Governing the Control of Equine Infectious Anemia in Virginia
<b>Action title</b>	Repeals the alternate testing requirements for horses assembled for sale or auction in Virginia
<b>Date this document prepared</b>	August 16, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The current regulation establishes requirements for the control of Equine Infectious Anemia in Virginia. EIA is a contagious and infectious disease of horses, ponies, jackasses, mules and other animals of the genus Equus. This regulation requires the testing of equine animals to be imported to the state and for those to be assembled for sale, auction and other purposes. The current regulation authorizes the State Veterinarian to allow, as an alternative or option, the testing of horses at the market or auction where equines are sold rather than requiring the test before the animals are transported to market. The purpose of this regulatory action is to give consideration to amending this regulation to remove the alternative or option of allowing the testing of horses at the market or auction where equines are sold. Consideration will also be given to the continued need and effectiveness of this regulation.

### Legal basis

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

Section 3.1-726 of the Code of Virginia authorizes the Board of Agriculture and Consumer Services to adopt such regulations as may be necessary to eradicate or control infectious or contagious diseases in the livestock and poultry in Virginia.

### Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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The requirement to perform the test prior to the arrival of a horse at market provides a stronger safeguard against the spread of the disease and, very importantly, provides for a more accurate trace-back of horses identified as infected "reactors." The current alternative requirement of testing at market has the potential for allowing horses already exposed to the disease to be co-mingled with healthy horses at market. Given that EIA is highly contagious, alternative testing at market can provide an opportunity for reactor horses to spread the disease before test results are confirmed.

### Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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Changes being proposed to the current regulation would remove the authority of the State Veterinarian to allow the EIA (Coggins AGID) test to be made at market or auction rather than prior to horses being transported to market. The proposed amendments will clarify the period during which test results are valid.

### Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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Permitting the alternative testing requirement at market would continue to provide an opportunity for the spread of EIA by infected horses at market and will continue to create unnecessary challenges to the State Veterinarian and staff in performing more time-consuming disease trace-backs when horses at market are identified by Coggins AGID test as reactors. (Removing the alternative testing requirement is expected to tempt some unscrupulous horse owners to present fraudulent EIA test certificates when they bring their horses to market or auction. The State Veterinarian will continue to refer these fraudulent acts to the local Commonwealth's Attorney for prosecution.) Removing all requirements for testing of horses for EIA is not acceptable given the considerable economic value of the horses in the state that could be lost should they become infected with the disease.

## Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to:

Colleen Calderwood, DVM  
P.O. Box 1163  
Richmond, Virginia 23218  
Phone: 804-786-2483  
Fax: 804-371-2380  
E-mail: [colleen.calderwood@vdacs.virginia.gov](mailto:colleen.calderwood@vdacs.virginia.gov)

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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.

A public hearing will not be held.

## Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

The agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

## Family impact

*Assess the potential 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.*

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The agency estimates that overall the proposed regulatory action will have a neutral impact on family and family stability across the state. The agency recognizes that lack of adequate animal disease control can have a devastating impact on a farm family that depends on the Commonwealth's protection of its animals in maintaining profitability and economic stability. To the extent that the proposed regulatory changes will provide greater protection for horses on family farms, they will provide greater financial stability for hundreds of families who depend on their horses for income.