



Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-260
Regulation title	Regulations Establishing the Virginia Quality Label
Action title	Repealing the Regulations Establishing the Virginia Quality Label
Date this document prepared	December 19, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The Virginia Department of Agriculture and Consumer Services (VDACS) proposes to repeal 2 VAC 5-260, Regulations Establishing the Virginia Quality Label, which describes the Virginia Quality Label as consisting of an outline map of the State of Virginia to be used for designating inspected agricultural products. Since Virginia adopted and utilizes the U.S. Department of Agriculture (USDA) grade standards and retains the authority to adopt other grades or standards in addition to or different from those recommended or adopted by the USDA, a separate Virginia Quality Label is not necessary.

Statement of final agency 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.

On December 19, 2012, the Director of the Division of Marketing and Development, with the approval of the Commissioner of Agriculture and Consumer Services, authorized the repeal of 2 VAC5-260, Regulations Establishing the Virginia Quality Label.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

§ 3.2-4320 of the Code of Virginia provides that it is unlawful to use the Virginia Quality Label or a label with the shield of the United States, except in accordance with regulations prescribed by the Marketing Director with the approval of the VDACS Commissioner. In no case shall it be used upon the label, tag, seal, or container of the product of any farm, factory, mill or any other producing, processing, packing, preparing, or dressing establishment unless such product is processed, packed, prepared, or dressed under continuous official state or federal-state inspection.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Virginia offers agricultural producers official grading services for agricultural commodities including fruits & vegetables, peanuts, soybeans and grain, livestock, poultry and eggs. These grading and inspection services are based on official grades recommended or adopted by USDA. Due to the adoption and utilization of USDA grade standards and the authority to adopt and utilize other nationally and internationally recognized grade standards for commodities grown in Virginia, a separate Virginia Quality Label is not necessary.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

VDACS expects the repeal of these regulations to be noncontroversial because neither the agency nor the industry has utilized the Virginia Quality Label in at least 20 years.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

VDACS proposes to repeal 2 VAC 5-260, Regulations Establishing the Virginia Quality Label, in its entirety.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

The repeal of 2 VAC 5-260, Regulations Establishing the Virginia Quality Label, poses no disadvantages to either the public or the Commonwealth of Virginia. For at least two decades, this label has not been used.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

Since this action proposes to repeal the regulation in its entirety, there are no requirements that exceed federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The repeal of this regulation does not affect any locality.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The repeal of this regulation will not adversely impact small business. This regulation is no longer needed with the current utilization of USDA grade standards and the agency’s retained authority to adopt grades or standards in addition to or different from those recommended or adopted by the USDA, if there is a demand for additional or different grades or standards by those persons in the Commonwealth producing and handling such products.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures.	The Commonwealth will not incur any costs due to the repeal of this regulation.
Projected cost of the new regulations or changes to existing regulations on localities.	Localities will not incur any costs related to the repeal of this regulation.
Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.	Individuals and businesses will not incur any costs related to the repeal of this regulation.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	No entity, including small businesses, will be affected by the repeal of this regulation.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting,	There is no cost associated with the repeal of this regulation.

<p>recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Repealing this regulation will eliminate an unused chapter from the Virginia Administrative Code.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

This regulation is an unused chapter in the Virginia Administrative Code. According to existing records, the last regulatory action concerning 2 VAC 5-260 was in June 1962, when it was adopted by the former Marketing Division Director with the approval of the Commissioner.

Family impact

Please assess the 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.

The repeal of this regulation does not impact the institution of the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
NA	NA	NA	NA