



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-325
Regulation title	Regulations Governing Pine Shoot Beetle
Document preparation date	December 11, 2012

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 14 (2010) 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.

Pursuant to Section 3.2-703 of the *Code of Virginia*, the Board of Agriculture and Consumer Services may quarantine the Commonwealth or any portion thereof to prevent or slow the spread of a pest into, within, or from the Commonwealth.

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.

A viable alternative to 2VAC3-325 *et seq.*, *Regulations Governing Pine Shoot Beetle*, does not exist.

The purpose of this regulation is to slow the artificial spread of the pine shoot beetle from infested areas to non-infested areas by restricting the movement of regulated articles from regulated localities to unregulated localities. This regulation is the least burdensome approach to slowing the artificial spread of the pine shoot beetle, as the regulation only includes as regulated localities those in which the pine shoot beetle has been detected. Without this regulation, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service may elect to issue a

federal quarantine that would encompass all of Virginia and would place restrictions on businesses in non-infested areas of Virginia that are not currently subject to the provisions of this regulation.

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.

The agency did not receive any comments during the public comment period following the publication of the Notice of Periodic Review. An informal advisory group was not formed for the purpose of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation assists in reducing the impact of the pine shoot beetle on landowners, thereby protecting the public's health and welfare. This regulation is clearly written and easily understandable.

Result

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

The agency is recommending that this regulation stay in effect without change.

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 agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

This regulation has a minimal economic impact on small businesses. The agency has determined this regulation is necessary in order to continue to slow the artificial spread of the pine shoot beetle from infested areas to non-infested areas. The agency has determined that the regulation is not unnecessarily burdensome or complex. The agency has not received any complaints or comments from the public regarding the regulation.

Section 3.2-703 of the Code provides the Commissioner of Agriculture and Consumer Services with the authority to expand or reduce a quarantine's regulated area. The regulation was last amended to expand the regulated area in November 2010. No significant changes to technology, economic conditions, or other factors have occurred that would necessitate additional amendments to this regulation.

The pine shoot beetle is a federally regulated pest. Currently, the regulated areas under the federal pine shoot beetle quarantine mirror the regulated areas included in Virginia's quarantine. Without this regulation, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service may elect to issue a federal quarantine that would encompass all of Virginia and would place restrictions on businesses in non-infested areas of Virginia that are not currently subject to the provisions of this regulation. As such, the agency recommends that the regulations stay in effect without change.

Family impact

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

This regulation has no impact on the institution of family and family stability.