



Virginia
Regulatory
Town Hall

Periodic Review and Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Agriculture and Consumer Services
VAC Chapter Number:	2VAC 5-360
Regulation Title:	Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law
Action Title:	Amend
Date:	December 6, 2000

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation establishes labeling guidelines for the manufacturers of commercial feed as to claims for animal nutrients, including guarantees for crude protein, crude fat, crude fiber, minerals and vitamins; ingredients; methods of sampling and analysis; definitions and standards; and application for and cancellation of registrations and licenses. The regulation serves as a

reference and instructional guide for the manufacturer of these products and provides expectations of compliance for products merchandised within the Commonwealth.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The regulation is mandated by Section 3.1-828.4 of the Code of Virginia (1950) as amended. The Board of Agriculture and Consumer Services is authorized, and expected, to adopt regulations to interpret the intent and meaning of the Virginia Commercial Feed Law.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

The Department published its notice in The Virginia Register of Regulations on September 11, 2000 advertising the opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). The Department received no comment from the public regarding this regulation in response to this notice. An informal advisory group was not formed for the purpose of assisting with this periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency will continue to protect the public's health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses by monitoring industry compliance with the regulation and ensuring:

1. that products (including medicated feed) regulated under the Virginia Commercial Feed Law are properly formulated and labeled;
2. that the manufacturer's recommendations for use of these regulated products are in accordance with methods and procedures which enhance the safety, quality and quantity of the food supply for both humans and animals; and
3. that guidelines for the methods used to provide verification of labeling claims for a regulated product are established.

This regulation is clearly written and easily understandable by the individuals and entities affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Due to the nature of the state mandate for this regulation, an alternative measure of not having a regulation does not exist.

The agency has considered the adoption of model regulations as an alternative to these regulations. The Association of American Feed Control Officials (AAFCO) has suggested model regulations for the enforcement of commercial feed laws in all states. However, it is the agency's opinion that the current regulations with some amendments will be less burdensome to the regulated industry than the suggested AAFCO model. The regulation addresses the minimum mandates of §3.1-828.4 of the Code of Virginia, and serves to clarify provisions within the Code and provides guidance to individuals affected.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

VDACS recommends the regulations be amended to achieve compatibility with changes to the Commercial Feed Law enacted by the 1994 General Assembly.

Substance of Proposed Action

Please detail any changes that would be implemented.

Delete the following sections that have been replaced or made obsolete by changes to the statute:

- Section 11. Cancellation of registration and license.
- Section 12. Additives
- Section 13. Crude fiber standards.
- Section 14. Application for registration of commercial feeds.

Amend the following sections to clarify the regulation and make the intent and meaning of the regulation compatible with changes to the statute:

- Section 1. Definitions.
- Section 2. Brand Names.
- Section 3. Expression of Guarantees.
- Section 4. Ingredient Statement.
- Section 5. Labeling.
- Section 6. Minerals.
- Section 7. Non-protein nitrogen.
- Section 8. Ingredients.
- Section 9. Methods of sampling and analysis.
- Section 10. Definitions and standards.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

Unless otherwise discussed in this report, this regulation has no impact upon families.