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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

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| Agency name | Board of Agriculture and Consumer Services |
| Virginia Administrative Code (VAC) citation | 2 VAC 5-70 |
| Regulation title | Health Requirements Governing the Control of Equine Infectious Anemia in Virginia |
| Date | March 25, 2016 |

This information is required pursuant to Executive Order 17 (2014).

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 3.2-109 of the Code of Virginia (Code) establishes the Board of Agriculture and Consumer Services (Board) as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-6001 of the Code directs the Commissioner, the Board, and the State Veterinarian to use their best efforts to protect livestock and poultry from contagious and infectious disease. This section states, in part, that it shall be the duties of these parties to cooperate with the livestock and poultry disease control officials of other states and with the U.S. Department of Agriculture (USDA) in establishing quarantine lines and regulations so as to best protect the livestock and poultry of the Commonwealth.

Section 3.2-6002 of the Code directs the State Veterinarian to take necessary measures to prevent the spread of and to eradicate contagious and infectious diseases in livestock and poultry. This statute authorizes the Board to adopt regulations as may be needed to effectuate this.

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.

This regulation requires that equine owners conduct annual testing for Equine Infectious Anemia (EIA) on horses they own that are commingled with other horses. More frequent testing of horses is unnecessary and would be more costly to horse owners. Without testing, EIA may go undiagnosed, consequently increasing the potential for the spread of the disease. Annual testing of horses that may spread the disease to other horses is the least burdensome alternative available for achieving the purpose of the 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 received no comments during the public comment period and did not form an informal advisory group to assist in this periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The equine industry is a significant economic sector in Virginia. This regulation is necessary for the protection of public health, safety, and welfare because it provides protection to horse owners in Virginia, who are an important component of the animal agriculture industry. Since healthy horses are critical for the economic viability of horse owners, it is important that this regulation stay in place. EIA is a fatal disease with no treatment. The most effective way to control EIA is through testing, which has been conducted over the last 40 years. The required testing has dramatically reduced the incidence of EIA in the United States. However, the disease has not been eradicated and the need for testing remains. The regulation is clearly written and easy to understand.

Result

Please state that the reason why 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 change as it is an effective method of controlling EIA in Virginia.

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 basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The agency has determined that there is a continued need for this regulation in order to protect the equine industry in Virginia. This regulation decreases the potential for the spread of disease amongst equine populations. There have been no comments or complaints received from the public regarding this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by periodic review in 2000 and was amended in 2011. In the period since this regulation was last amended, there have been no significant changes in technology, economic conditions, or other factors. The regulation has minimal impact on small business.