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

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-380
Regulation title	Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law
Date	October 21, 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 authorizes the Board of Agriculture and Consumer Services (Board) to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia. Article 3 (Va. Code § 3.2-4738 et seq.) of Chapter 47 of Title 3.2 of the Code of Virginia establishes the licensing and bonding requirements for Virginia Agricultural Products Dealers.

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.

The regulation establishes notice requirements for conditional buyers who reject any lot of agricultural produce as well as the requirement that dealers provide a written receipt to producers for each lot of agricultural produce received or accepted. Additionally, the regulation provides that a producer may file a complaint with the agency if a dealer fails to comply with these requirements. The agency determined these requirements are not unnecessarily burdensome and provide an important means of protection for producers of agricultural produce.

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.

No comments were received during the public comment period that followed the publication of the Notice of Periodic Review on September 5, 2016, and an informal advisory group was not formed for the purposes of assisting in the 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.

This regulation is necessary to support the economic welfare of producers of agricultural produce and is clearly written and easily understandable.

Result

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

The agency recommends that the regulation stay in effect without change because it supports the economic welfare of producers of agricultural produce.

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 provisions of this regulation establish notice and written receipt requirements and are not unnecessarily burdensome. The agency has determined that this regulation should be retained in order to continue to protect and support the economic welfare of producers of agricultural produce. The agency has not received any complaints or comments from the public concerning this regulation. The agency has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses.

The federal Perishable Agricultural Commodities Act (7 USC 499a et seq.) (Act) requires any person who buys or sells more than 2,000 pounds of fresh or frozen fruits and vegetables in any given day to be licensed. Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law (2 VAC 5-380) does not appear to overlap, duplicate, or conflict with the requirements of the Act or with any other federal or state law or regulation. The agency has determined that no change in the affected industry has occurred subsequent to the agency's previous periodic review of this regulation that would necessitate the amendment or repeal of this regulation.