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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 5-450
Regulation title	Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law
Date	April 3, 2017

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 and authorizes the Board to adopt regulations in accordance with the provisions of Title 3.2 of the Code. Chapter 38 of Title 3.2 of the Code (Va. Code §3.2-3800 et seq.) directs the Commissioner of Agriculture and Consumer Services to protect the agricultural, horticultural, and other interests of the Commonwealth from plant pests and establishes the nursery registration, inspection and shipping requirements of nursery stock.

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 provides for the prevention of the spread of plant pests by establishing rules regarding the inspection of certain plants when nursery stock is sold, which enhances the marketability of Virginia-grown nursery stock and facilitates the acceptance in interstate commerce of Virginia-produced narcissus plants, narcissus bulbs, and vegetable transplants. The agency determined that these requirements are not unnecessarily burdensome and provide an important means of prevention of the spread of plant pests in nursery stock with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth. Therefore, alternatives to this regulation were rejected.

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 that ended on February 27, 2017, and an informal advisory group was not formed for the purpose of assisting 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.

This regulation is necessary for the protection of public health, safety, and welfare in that it prevents the spread of plant pests. The regulation 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 is necessary to prevent the spread of plant pests and is effective in its current format. No changes to agency or industry practices have occurred that would necessitate any modifications

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 continuing need for this regulation in order to provide protection against spread of potentially harmful pests and diseases. Provisions of this regulation require inspection of certain plants, thereby minimizing the spread of plant diseases and the associated negative impact to nursery operations, many of which are small businesses, from the plant disease.

There have been no complaints from the public concerning the regulation. The regulation is not unnecessarily complex. There is no overlap with federal or state law or regulations. The agency has determined that no changes have occurred in the area affected by this regulation since the last periodic review that would make it necessary to amend or repeal the regulation. The agency has determined that that current version of the regulation is consistent with current industry practices and is the least burdensome and least intrusive alternative.