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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5 - 380
VAC Chapter title(s)	Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law
Date this document prepared	July 18, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Perishable Agricultural Commodities Act" or "Act" means Chapter 20A of Title 7 of the United States Code.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

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 it to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Article 3 (Va. Code § 3.2-4738 et seq.) of Chapter 47 of Title 3.2 of the Code establishes the licensing and bonding requirements for Virginia Dealers in Agricultural Products.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

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

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. 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 May 23, 2022, and an informal advisory group was not formed for the purposes of assisting in the periodic review.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) 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.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

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

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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, discuss why the agency's decision, consistent with applicable law, will 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 (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.