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

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|----------------------------------------------------|-------------------------------------------------------------------------|
| <b>Agency name</b>                                 | Board of Agriculture and Consumer Services                              |
| <b>Virginia Administrative Code (VAC) citation</b> | 2 VAC 5-570                                                             |
| <b>Regulation title</b>                            | Rules and Regulations Defining Standards for Grades/Sizes of Shell Eggs |
| <b>Date</b>                                        | 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 3.2-5302 of the Code of Virginia authorizes the Board to adopt standards, grades, and size-weight classes including standards for the term "ungraded" for eggs marketed in the Commonwealth.

Section 3.2-5311 of the Code of Virginia authorizes the Board to adopt regulations to administer the Virginia Eggs and Hatchery Products Law (Va. Code § 3.2-5300 *et seq.*).

### 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.*

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This regulation adopts grade and weight standards established by the U.S. Department of Agriculture (USDA) for the grading of shell eggs. In order for eggs to move in interstate commerce, they must meet federal standards. The agency could attempt to enforce the standards for eggs through the general provisions of the Virginia Food and Drink Law (Chapter 51 of Title 3.2 of the Code of Virginia); however, the Code lacks the specific language necessary to enforce the standards, specific tolerances, and quality factors noted in this regulation. The standards as identified in this regulation are reasonable and enable producers and retailers to market egg products that meet consumer expectations. The labeling requirements are reasonable, necessary, and informative to consumers. The sanitary requirements in the regulation ensure consumer safety. This regulation 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.*

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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.*

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The regulation is necessary for the protection of public health, safety, and welfare because it ensures that Virginia-produced eggs are safe and of good quality. Since a safe food supply is imperative for the public's health, it is important that this regulation stay in place for the continued protection of the public. The poultry industry is a significant economic sector in Virginia. 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.*

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The continuation of this regulation will ensure that safe, high quality eggs are available to Virginia's consumers and that Virginia-produced eggs are of sufficient quality to move in intrastate and interstate commerce. The provisions of the regulation are easily achievable and are not burdensome to the industry.

### 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.*

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The agency has determined that there is a continued need for this regulation. Many farms that engage in egg production are small businesses, and this regulation ensures that Virginia-produced eggs can be sold outside the state. 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 evaluated, there have been no significant changes in technology, economic conditions, or other factors.