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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 5-360
Regulation title	Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law
Date	October 22, 2015

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 3.2-4801 of the Code authorizes the Board to adopt regulations necessary to carry out the provisions of the Virginia Commercial Feed Law.

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.

A viable alternative to 2 VAC 5-360 does not exist. This regulation is necessary to ensure that feed regulated under the Virginia Commercial Feed Law is properly formulated and labeled and to ensure that manufacturers' recommendations for the use of these regulated products are in accordance with methods and procedures that enhance the safety, quality, and continued availability of animal feed.

Without the labeling requirements established by this regulation, commercial feed purchasers would not be able to determine the quality and quantity of the ingredients in the feed they purchase. Commercial feed purchasers must be able to ensure that the ingredients in the feed they purchase will support their animal's health and development. Purchasers must also be able to ensure that animal feed ingredients will not subsequently adulterate food products consumed by humans.

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.

Commercial feed purchasers must be able to ensure that animal feed ingredients will not subsequently adulterate food products consumed by humans. As such, this regulation is necessary in order to protect the public's health, safety, and welfare. This regulation is clearly written and easily understood.

Currently, the Official Methods of Analysis of AOAC International (2002), 17th edition, is used to determine the standards for the sampling and analysis of commercial feed. While we are aware that AOAC has published an 18th edition, the AOAC methods used for testing and analysis of commercial feed remain unchanged from the 17th edition. Therefore, we recommend that the language of the regulation stay in effect without change.

Result

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

The agency recommends that this regulation stay in effect without change. In the period since this regulation was last evaluated, there have been no significant changes that would necessitate amending this regulation.

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.

This regulation establishes labeling requirements with which commercial feed manufacturers must comply. Many commercial feed purchasers are farmers that operate small businesses, and this regulation ensures that commercial feed available for purchase is properly formulated and labeled. The labeling requirements established in this regulation also assist commercial feed purchasers in determining whether a given feed will satisfy the nutritional needs of their animals. There have been no complaints or comments received from the public for this regulation. The regulation is not complex and does not include any unnecessary or overly burdensome requirements with which small businesses must comply. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

No significant changes to technology, economic conditions, or other factors have occurred that would necessitate modifications to this regulation since the previous periodic review of this regulation in 2011. The agency recommends that the regulation stay in effect without change.