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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 5-130
Regulation title	Rules and Regulations Governing Laboratory Fees for Services Rendered or Performed
Date	October 18, 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 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 of Virginia. Section 3.2-5903 of the Code of Virginia directs the Commissioner of Agriculture and Consumer Services to maintain and operate a laboratory system for the diagnosis of animal diseases.

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 authorizes the State Veterinarian to collect reasonable fees for animal health laboratory services rendered. The non-general funds collected under this regulation have supported the operation of the Virginia Animal Health Laboratory System. Allowing fee collection for laboratory services targets much of the support for those services to the industry and client user groups most directly benefiting from those services. Without this fee collection ability, the laboratory system would not be able to provide continuing support to Virginia agricultural interests and the veterinary and animal owner communities. 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 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.

The regulation is necessary for the protection of public health, safety, and welfare in that it provides major support to and a source of funding for the operation of the Animal Health Laboratory System. The Animal Health Laboratory System provides frontline monitoring in detecting and preventing animal diseases that could impact public health. Consumers are also protected by the testing of various products including milk, ice cream, and water. 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 is recommending that the regulation stay in effect without change because it is necessary to provide support to the operation of the Animal Health Laboratory System 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.

There is a continuing need for this regulation in order to support the operation of the Animal Health Laboratory System. There have been no complaints from the public concerning the regulation. The regulation is necessarily uncomplicated. There is no overlap with federal or state law or regulations. Technology, economic conditions, and other factors have not impacted the need for this regulation, but, in fact, make the existence of this regulation even more necessary as economic conditions have resulted in the Animal Health Laboratory System being more dependent on fee revenue to provide the current technology needed to offer services to clients. The primary effect on small business is a beneficial one, as veterinary practices, agricultural businesses, and livestock and animal owners in the Commonwealth are able to obtain laboratory services nearby and at an affordable price. Therefore, the agency has determined to retain the regulation as-is.