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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 5-390
Regulation title	Rules and Regulations for the Enforcement of the Virginia Seed Law
Date	April 12, 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. Section 3.2-4001 of the Code authorizes the Board to develop regulations that assure quality seeds are available for sale in the Commonwealth and govern the methods of sampling, inspection, and testing of seeds.

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 Seed Law regulates all seeds for agricultural crops, lawn grass, vegetables, flowers, and trees and ensures the integrity of seeds sold in Virginia. The law also provides service sample testing for farmers, seed dealers, processors, and consumers. The regulation requires samples of seeds to be collected and tested in the Seed Laboratory to ensure purity, germination, varietal trueness, and freedom from noxious weeds. The agency determined these requirements are not unnecessarily burdensome and provide an important means of protection for producers of agricultural produce. 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 to support the integrity of seed sold in Virginia, which is necessary for the protection of public health, safety, and welfare. The regulation is drafted to minimize its cost and intrusiveness to the citizens and businesses of the Commonwealth. 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 support the integrity of seed sold in Virginia and is effective in its current format. No changes to agency or industry practices have occurred that would necessitate any modifications to the 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.

The provisions of this regulation ensure that seeds continue to be tested to determine the accuracy of the labels on seeds offered for sale in the Commonwealth as to seed purity, germination, trueness to variety, and absence of noxious weeds. The regulation provides for testing for farmers, seed producers, and consumers. In carrying out its seed testing responsibilities, the seed laboratory works with the Virginia Crop Improvement Association, the Foundation Seed Farm for its certification program, and the Federal Seed Laboratory for the enforcement of the Federal Seed Act. The agency has determined that this regulation should be retained in order to continue to protect and support the economic welfare of farmers and processors, many of whom are small business owners, as well as consumers.

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.