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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 5-360
VAC Chapter title(s)	Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law
Date this document prepared	October 30, 2020

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.

"AOAC" means AOAC International or the Association of Official Analytical Chemists.

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 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 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.

A viable alternative to 2 VAC 5-360 *et seq.*, *Regulations for the Enforcement of the Virginia Commercial Feed Law*, 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

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.

Commenter	Comment	Agency response
Virginia Farm Bureau Federation (VFBF)	After review of the section as currently published, we believe the current regulations are sufficient. VFBF has no recommended changes for 2VAC5-360, but reserves the right to provide additional comment should regulatory changes be proposed.	The agency appreciates the commenter's feedback and participation in the periodic review of this regulation.

The agency did not form an informal advisory group to assist in this 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.

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 a 21st 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.

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 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

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.

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 2015. The agency recommends that the regulation stay in effect without change.
