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Exempt Action: Final Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-380
VAC Chapter title(s)	Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law
Action title	Repeal of Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law
Final agency action date	May 22, 2025
Date this document prepared	July 8, 2025

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action will repeal Virginia's *Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law*, 2 VAC 5-380 et seq. (Regulation). Chapter 142 of the 2025 Session of the General Assembly repealed the Dealers in Agricultural Produce Law (Article 3 (§§ 3.2-4738 through 3.2-4752) of the Sale of Farm Produce Law) (Law) thereby eliminating the need for this Regulation, which was enacted to aid in the administration of the Law.

The Law required licensing and bonding of dealers of "agricultural produce," which the Law defined as "fruits and vegetables." The bond was posted with the Commissioner of the Department of Agriculture and Consumer Services (VDACS) and was used to guarantee payment for agricultural produce in the event of nonpayment, fraud, deceit, or negligence by a dealer.

The Regulation provides specific requirements for dealers of agricultural produce related to licensing , notification of producer when produce has been rejected, providing a receipt for produce, filing a complaint with VDACS, and filing contracts with VDACS.

The requirements of the Law were largely duplicative of requirements established in the federal Perishable Agricultural Commodities Act (PACA), which requires licensing of produce dealers. PACA is administered by the U.S. Department of Agriculture (USDA) Agricultural Marketing Service and was established to promote fair trade and protect businesses dealing in fresh and frozen fruits and vegetables through a code of fair business practices. Currently, agricultural produce in Virginia is typically bought and sold by dealers who already have a federal PACA license. Over the past five years, VDACS has issued an average of 11 dealer licenses per year. During this time, no claims have been made by producers against the produce dealer bonds.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Chapter 142 of the 2025 Acts of Assembly repeals the Law, which required dealers in agricultural produce to obtain a license from VDACS and post a bond. As of July 1, 2025, the Law is no longer in effect, thereby rendering the *Rules and Regulations for the Enforcement of the Virginia Dealers in Agriculture Products Law, 2 VAC 5-380*, unnecessary.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”

On May 22, 2025, the Board of Agriculture and Consumer Services authorized staff to take any and all steps necessary to repeal *Rules and Regulations for the Enforcement of the Virginia Dealers in Agriculture Products Law, 2 VAC 5-380*, through an exempt regulatory action as authorized by § 2.2-4006 of the Virginia Administrative Process Act.