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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 5-70
VAC Chapter title(s)	Health Requirements Governing the Control of Equine Infectious Anemia in Virginia
Date this document prepared	September 8, 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.

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.

Sections 3.2-6001 and 3.2-6002 of the Code authorize the Board to adopt regulations to protect the livestock and poultry of the Commonwealth against all contagious and infectious diseases and to prevent the spread of or eradicate these diseases.

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.

This regulation requires that equine owners conduct annual testing for Equine Infectious Anemia (EIA) on horses they own that are commingled with other horses. Alternatives would be to require more frequent testing or none at all. More frequent testing is unnecessary and would be more costly to horse owners. Without testing, EIA may go undiagnosed, consequently increasing the potential for disease spread. Annual testing of horses that may spread the disease to other horses is the least burdensome alternative available for achieving the purpose of the regulation.

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
Tony Banks, Virginia Farm Bureau Federation	The current regulations are sufficient.	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.

Horses are an important component of Virginia's animal agriculture industry, and the equine industry is a significant economic sector in Virginia. EIA is a fatal disease with no treatment. The most effective way to control EIA is through testing, as has been conducted over the last 40 years, during which time the incidence of disease has been dramatically reduced but not eradicated in the U.S. This regulation is necessary for the protection of economic welfare of horse owners in Virginia. Since healthy horses are critical for the economic viability of horse owners, it is important that this regulation stay in place. The regulation is clearly written and easy to understand.

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 is recommending that the regulation should stay in effect without change as it is an effective method of controlling EIA in Virginia.

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.

Retaining the current regulation will not have a significant negative impact on small businesses. There is a continued need for this regulation to stay in effect in order to protect livestock and public health. If the regulation is not maintained, then the risk of disease could have a negative impact on small businesses and producers who rely on livestock for the viability of their farms and businesses. This regulation is important for the livestock industry and is consistent with federal laws and regulations regarding interstate movement of animals. The agency has not received any complaints from the public regarding this regulation. The regulation is not unnecessarily complicated and does not overlap, duplicate, or conflict with federal or state law or regulation. Since the last time this regulation was evaluated, there have not been significant changes in technology, economic conditions, or other factors that would necessitate amending the regulation
