



townhall.virginia.gov

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 5-250
VAC Chapter title(s)	Rules and Regulations Relating to Grain Dealers Licensing and Bonding Law
Date this document prepared	September 9, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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*.

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. Section 3.2-4759 of the Code authorizes the Board to establish recordkeeping requirements for grain dealers.

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.

The agency has determined that no viable alternatives exist to achieve the purpose of the regulation. This regulation assists in ensuring that Virginia's farmers are promptly and properly paid for their grain. The regulation requires the dealer to keep all grain transaction records for reviewing. These records provide an accounting in the event of default by the grain dealer, which helps farmers document and receive payment for their losses. The regulation is effective and being administered in the most efficient and least burdensome manner.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency's 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.

An informal advisory group was not formed for the purpose of assisting in this periodic review.

Commenter	Comment	Agency response
Virginia Farm Bureau Federation (VFBF)	The current regulations ensure that producer grain and contractual agreements are secured and stable while guaranteeing that farmers of the Commonwealth are being paid for their grain commodities. While VFBF has no recommended changes for 2 VAC 5-250, we reserve the right to provide additional comment should regulatory changes be proposed.	The agency appreciates the commenter's participation 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 the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This regulation is necessary to protect the economic welfare of Virginia's grain producers. The regulation specifies the information that must be recorded by grain dealers in grain transactions with farmers. Without the records required by this regulation, the agency would be unable to assist in ensuring that

farmers receive prompt payment for their grain. The records provide an accounting of amounts owed in the event of non-payment of grain by the grain dealer. In many cases, these transactions are for large amounts of money. Therefore, this regulation implements a law that helps protect farmers from the loss of income and supports their economic welfare.

The regulation is clearly written and easily understood by the regulated industry.

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).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The agency has determined that this regulation should remain in effect without change for the economic welfare of Virginia grain producers.

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.

The agency has determined that this regulation continues to be necessary and should remain in effect without change. The agency received one comment regarding the regulation during the public comment period, and the comment was in support of regulation. The agency has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The agency last conducted a periodic review of the regulation in 2016, and the agency has determined that no changes in technology, economic conditions, or other factors have occurred that necessitate amendments to the regulation. The agency continues to believe the current regulation is the least burdensome and intrusive alternative for the required regulation of the grain industry.
