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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 5-230
Regulation title	Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples
Date	October 17, 2016

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 establishes the Board of Agriculture and Consumer Services (Board) as a policy board. Sections 3.2-4601 and 3.2-4605 of the Code of Virginia authorize the Board to adopt regulations to prescribe certain requirements related to controlled atmosphere storage of apples and to prescribe certain fees for operators of controlled atmosphere storage, respectively.

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 agency considered repealing the regulation. However, the regulation is needed to clarify certain provisions of the Code of Virginia pertaining to controlled atmosphere storage of apples. The agency believes the present version is the least burdensome and least intrusive alternative. For these reasons, the agency decided to retain the regulation.

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 on September 5, 2016, and an informal advisory group was not formed for the purposes of assisting in the 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.

The regulation benefits the welfare of citizens through availability of better quality fruit throughout the year, and it provides equitable pricing for fruit producers and sellers. The regulation is clearly written and easily understood by the individuals and entities affected.

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 remain in effect without change because the regulation is needed to clarify certain provisions of the Code of Virginia pertaining to controlled atmosphere storage of apples.

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 regulation has minimal impact on small businesses. The agency is recommending that the regulation should remain in effect without change. The regulation promotes the welfare of citizens by making available to the public better quality fruit throughout the year, and it provides equitable pricing for fruit producers and sellers. The agency has not received any comments or complaints regarding the regulation. The regulation does not duplicate any state or federal laws or regulations. The regulation is not overly complex. 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 believes the current version of the regulation is the least burdensome and least intrusive alternative for the apple industry and affected small businesses.