



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Agriculture and Consumer Services
VAC Chapter Number:	2 VAC 5-230
Regulation Title:	Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples
Action Title:	Retain
Date:	May 8, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

Controlled-atmosphere storage is a process that regulates the humidity, temperature, and oxygen where fruit is stored and thus retards the ripening of the fruit. Fruit is defined in the governing law to mean apples and peaches. Freshly harvested fruit, when placed in such storage, remains substantially in its freshly harvested condition. Storing fruit under such controlled conditions benefits the public, by making available throughout most of the year fruit that is of superior, near-freshly-harvested quality. This benefits fruit producers and sellers, because the superior quality of the fruit can command higher prices.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Sections 3.1-996, 3.1-997, and 3.1-1001 of the Code of Virginia mandate the Board of Agriculture and Consumer Services shall adopt regulations to carry out the purposes of the law entitled, "Controlled Atmosphere Storage of Apples and Peaches." The Board may adopt such rules and regulations, after consultation with the Board of Directors of the Virginia State Horticultural Society, that prescribe temperature and oxygen level and duration of that level in storage facilities, minimum and maximum exposure of fruit to those conditions and grade and condition standards applicable to CA apples. The regulation does not exceed the minimum requirements of the state mandates.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

The Department published its notice in The Virginia Register of Regulations on February 12, 2001 advertising the opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). The Department did not receive any public comments concerning this regulation. An informal advisory group was not formed for the purpose of assisting with this periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific and measurable goals of the regulation are:

1. The protection of the public’s health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. To ensure that, when apples offered for sale are identified as having been stored in a controlled atmosphere (CA), they meet the requirements for such designation.

The regulation is effective in achieving the goals.

The regulation benefits the welfare of citizens through availability of better quality fruit throughout the year, and it holds the potential for better prices for fruit producers and sellers.

The regulation has no impact on the institution of family or family stability.

The regulation is clearly written and easily understood by the individuals and entities affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The Agency considered repealing the regulation, but it is mandated by the Code of Virginia and the Agency believes the present version is the least burdensome and least intrusive alternative. For these reasons, the agency rejected the consideration to repeal the regulation.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The Agency is recommending that the regulation should remain in effect without change.

Family Impact Statement

Please provide an analysis of the regulation’s impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children

and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

Unless otherwise discussed in this report, this regulation has no impact upon families.