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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 5-550
VAC Chapter title(s)	Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage
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.

Section 3.2-5101 of the Code authorizes the Board to adopt regulations that will promote honesty and fair dealing in the interest of consumers that purchase food products, including regulations that establish standards of identity and tolerances or limits of variability.

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 could attempt to enforce the standards relating to tolerances and prohibitions for sausage via the general statutes in Chapter 51 of the Code of Virginia. However, those statutes lack the specific language necessary to enforce a standard of identity and the specific tolerances and prohibitions noted in this regulation. The standards as identified in this regulation are reasonable and enable the food industry to market a product that is standardized as well as one that meets consumer expectations. Additionally, consideration of enforcement of standards of identity by a federal authority should be rejected as requirements at that level will be significantly more burdensome to the food industry. Therefore, this regulation 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.

No comments were received during the public comment period. 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.

The regulation is necessary to ensure that the consuming public is able to purchase a product that meets expectations regarding what is considered to be a sausage product. Limits regarding the amount of fat in the product ensure that consumers are able to purchase a sausage product that is not excessively harmful to health, as large amounts of saturated fat have been known to contribute to cardiovascular disease. The regulation is clearly written and easily understandable.

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 this regulation stay in effect without change. The regulation provides for a sausage product that meets consumer demand and expectation while ensuring that the product is manufactured in a way that will provide for uniformity and consistency.

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.

This regulation is still needed because to ensure that sausage products are produced according to and meet minimum acceptable standards relative to product formulation and saturated fat content. Without this regulation, it would be difficult to ensure that sausage products conform to and meet acceptable standards. There have no complaints or comments received relative to this regulation. The regulation is not complex. It is easily understandable with standards and requirements that are reasonable and easily attainable. Federal regulations also provide certain standards for sausage products. However, these regulations are primarily enforced and policed at meat processing facilities that produce and sell wholesale. The subject regulation is typically enforced and applied to sausage products formulated or sold by a food establishment directly to consumers, such as at a retail food store. The regulation establishes specific production standards applicable to retail environments. This regulation was evaluated during a periodic review conducted in 2016. Since that time, there have not been significant changes in technology, economic conditions, or other factors that would render the regulations outdated. Since the regulation is not complex or burdensome and provides for a product standard that consumer find desirable, it will have minimal to no negative economic impact on small businesses.