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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 - 230
VAC Chapter title(s)	Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples
Date this document prepared	June 15, 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 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.

"Controlled atmosphere storage" or "CA" means any storage warehouse consisting of one or more rooms in any one facility in which atmosphere gases are controlled in their amount and in degrees of temperature for the purpose of controlling the condition and maturity of fruit.

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 3.2-4601 of the Code allows the Board to adopt regulations for the CA storage of apples and peaches.

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 this regulation. This regulation ensures that CA apples offered for sale are identified as having been stored in a CA and meet the requirements for such designation. The regulation is effective and 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 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.

The agency did not receive any comments during the public comment period following the publication of the Notice of Periodic Review on May 23, 2022, and did not form an informal advisory group for the purpose of assisting in the 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.

This regulation benefits welfare of citizens through availability of better quality apples throughout the year. The regulation is clearly written and easily understandable 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).

The agency recommends that this regulation stay in effect without change.

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 has not received any complaints or comments regarding the 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 apple industry.
