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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 5-550
Regulation title	Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage
Date	March 25, 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 (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 of Virginia 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.

Section 3.2-5121 grants the Board authority to adopt regulations for the efficient enforcement of Article 3 of Chapter 51 of the Code of Virginia.

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.

This regulation outlines the tolerances and prohibitions pertaining to the composition of sausage produced in the Commonwealth. The regulation also aligns certain requirements concerning the content of sausage with federal requirements to facilitate interstate commerce. The agency could attempt to enforce the standards relating to tolerances and prohibitions via the general provisions of the Virginia Food Laws (Chapter 51 of Title 3.2 of the Code of Virginia). However, the Virginia Food Laws lack the specific language necessary to enforce a standard of identity or the specific tolerances and prohibitions noted in this regulation. The standards as identified in this regulation are reasonable and enable producers and retailers to market a product that is standardized and meets consumer expectations. The agency also considered enforcing standards of identity via a federal authority; however, this would 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

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.

The agency received no comments during the public comment period and did not form an informal advisory group to assist in this 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.

This regulation is necessary for the protection of public health because it ensures that the consuming public is able to purchase a product that meets expectations regarding what is considered to be a sausage product. Limits regarding amount of fat in the product ensures 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.

Result

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

The agency is recommending that the regulation stay in effect without change. This regulation has provided 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. The standards are easily achievable and are not burdensome to the industry.

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 agency has determined that there is a continued need for this regulation. The agency has received no comments or complaints from the public regarding this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by a periodic review conducted in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors. The regulation has minimal impact on small business.