



## Exempt Action Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-490
<b>Regulation title</b>	Regulations Governing Grade "A" Milk
<b>Action title</b>	Amendments to reflect the changes in the federal 2013 Grade "A" Pasteurized Milk Ordinance
<b>Document preparation date</b>	July 8, 2014

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of The Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

2 VAC 5-490 or "Regulations Governing Grade "A" Milk" is being updated to reflect the changes in the federal *Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision*. Virginia's regulation must remain current with and reflect the requirements of the PMO in order for the dairy industry to ship milk interstate. 2 VAC 5-490 contains the framework necessary to regulate Grade "A" milk and milk products. The regulation ensures that milk is obtained from safe sources and is processed in a manner that will ensure that illness-causing bacteria are not consumed by the citizens of the Commonwealth. The regulation addresses important issues such as adulterated or misbranded milk or milk products, permits, the authority to impound milk and milk products, written warning and suspension notices for violations of certain milk standards, personnel health, and animal health.

The proposed amendments include the following significant regulatory modifications:

- The addition of definitions to address new developments in the industry, including a definition for "aseptic processing and packaging systems", a definition for "clean in place", a definition for "contaminated milk", and a definition for "food allergen".

- The elimination of the requirement for official cryoscope (added water) testing in milk. Since this testing is already performed by the dairy cooperatives, as well as the fluid milk processing plants, the agency determined that the testing was redundant, was not the best use of taxpayer money, and was an additional burden on the industry. Additionally, this test is not included in nor is it required to be in conformance with the 2013 PMO.
- The elimination of regulatory action requirements (warnings, suspension, and reinstatement) for volatile cryoscope results. Cryoscope testing will no longer be required.
- The addition of minimum frequencies for inspections of dairy farms, milk tank trucks, and milk hauler/samplers. This amendment is proposed in order to reflect current PMO requirements and to ensure the safety of milk products on dairy farms by frequent monitoring of those farms by Dairy Inspectors.
- The addition of a section requiring that all tests for pasteurized milk and milk products requiring sampling and testing be performed only when there are test methods available that are validated by the Food and Drug Administration and accepted by the National Conference on Interstate Milk Shipments. This addition reflects current changes/requirements in the 2013 PMO.
- The addition of requirements for screening or testing of raw milk transported in containers other than bulk milk tankers (i.e. milk cans). This reflects changes in the industry regarding bulk milk containers.
- The addition of information regarding the processing requirements for heat treated cream. Cream is under the jurisdiction of the Virginia Department of Agriculture and Consumer Services and the additional requirements reflect the requirements in the 2013 PMO. The requirements help to ensure safe dairy products.
- The addition of Grade "A" pasteurized condensed standards for temperature and coliform to the Grade "A" milk and milk products standards section to reflect the requirements of the 2013 PMO.
- The elimination of certain standards applying to nonfat dry milk. These standards are quality based and not dairy safety related. These standards have been removed from the 2013 PMO.
- The addition of provisions authorizing the utilization of electronic temperature recording charts on dairy farm bulk tanks. This reflects changes in the industry as well as the 2013 PMO. This will allow the industry to legally utilize electronic temperature monitoring systems.
- The addition of provisions relating to temperature requirements for "milk product flavoring slurries" and cultured cottage cheese. This will enable the Dairy Program to provide specific temperature requirements for these products and processes and will further ensure the safety of the milk supply.
- The incorporation by reference of Appendices H and S from the 2013 PMO into the regulation. Appendix H relates to regulatory requirements at the dairy farm level (temperature, etc.) and Appendix S addresses aseptic processing requirements at the Grade "A" fluid milk processing plant. These additions provide a more inclusive regulatory framework at both the dairy farm and the fluid milk plant level and reflect requirements of the 2013 PMO.
- The addition of provisions allowing for the use of hand drying devices. Previously, only sanitary towels were approved to dry hands. This language will allow additional flexibility for the dairy industry.
- The addition of certain requirements relating to block-bleed-block or mix proof valves for Automatic Milking Installations. This is to ensure that these machines have proper valves. This

will further ensure that the milk supply remains safe. This reflects the requirements of the 2013 PMO.

### Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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The proposed regulatory modifications are science-based and provide guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness. It is a goal of all government food safety agencies within the United States to reduce the occurrence of foodborne illness and ensure that foods available to consumers are safe to consume. Ensuring the safety of the food supply and reducing the level of foodborne illness have direct impacts on the family and family stability by positively affecting a family's disposable income, improving family health, reducing medical care costs, reducing absences from the work place, and reducing mental, physical, and emotional pain and suffering.