Virginia Department of Planning and Budget
Economic Impact Analysis

2 VAC 5-501 Regulations Governing the Cooling, Storing, Sampling, and Transporting of Milk
Department of Agriculture and Consumer Services
Town Hall Action/Stage: 6986 / 11140 Fast-Track
July 20, 2026

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 17 (2026). The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation

The Board of Agriculture and Consumer Services (Board) seeks to update several documents incorporated by reference (DIBR), including the *Grade "A" Pasteurized Milk Ordinance* (PMO), which is a federal standard issued by the U.S. Food and Drug Administration.[2] The Board also seeks to (i) amend provisions in the regulation that derive from the PMO and need to be updated accordingly and (ii) remove certain permit-related requirements.

Background

The *Regulations Governing the Cooling, Storing, Sampling, and Transportation of Milk* (2 VAC 5-501) establishes storage and cooling standards for grade "A" dairy farms and for milk transported from dairy farms. The Virginia Department of Agriculture and Consumer Services (VDACS) reports that the federal PMO serves as a guideline of minimum standards for all state regulatory programs. The regulation currently incorporates the 2017 revision of the PMO, which has since been superseded by the 2023 revision. VDACS reports that neighboring states have

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[1] See Code § 2.2-4007.04 (A).
[2] See https://www.fda.gov/food/milk-guidance-documents-regulatory-information/pasteurized-milk-ordinance-centennial.

already amended their regulations to reflect the 2023 PMO; thus, updating the DIBR in this regulation would also prevent any potential disruptions to the interstate movement of milk due to inconsistent standards. The *Regulations Governing Grade "A" Milk* (2 VAC 5-490) would also be updated in a separate action; thus, the proposed change would ensure consistency with that regulation.[3]

VDACS notes that by updating the reference to the 2023 PMO, two changes that were made to the PMO since the 2017 revision would become effective in Virginia: (i) allowing for the use of new technology by establishing requirements and clarification to allow for on-tanker farm bulk tank aseptic milk sampling devices, and (ii) removal of the requirement to list the name of the supervising regulatory agency at the point of origin for all milk tanker manifests and bills of lading (documentation that tracks the movement of bulk milk).

In addition, the Board seeks to make certain amendments to reduce the administrative burden on VDACS as well as the industry. Section 30 (Permits) requires individuals to obtain a permit to perform various duties such as sampling, measuring, and collecting milk; transporting milk samples; operating a tanker or a milk tank truck cleaning facility; or working at a "pay purpose laboratory." It also specifies that these permits shall expire on December 31 following the date of issuance and must be renewed every year. The Board seeks to strike the language on expiration and renewal so that once individuals obtain a permit, they will not need to renew them.

The Board also seeks to add a provision to Section 30 that,

> "A dairy plant sampler who is an employee of a grade "A" milk plant is exempt from the requirements of obtaining a permit as required in this chapter, if such person is not required to obtain a permit under the provisions of the [2023 PMO.]"

Thus, dairy plant samplers who are employed by a grade "A" milk plant, who receive each tanker at a milk plant and sample the milk for antibiotic residues, will be able to operate under the permit of their employer instead of requiring each sampler to maintain an individual permit.

Other proposed amendments would remove a reference to "strip chart style recorder," which VDACS reports is no longer used in the industry, and update a provision regarding

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[3] See https://townhall.virginia.gov/L/viewstage.cfm?StageID=11152.

agitation of milk to match the PMO and current industry standards. Lastly, the Board seeks to update two other DIBRs: the *ANSI/NEMA 250, Enclosures for Electrical Equipment (1000 Volts Maximum)* would be updated from the December 29, 2014 version to the version dated December 8, 2020, and the *Standard Methods for the Examination of Dairy Products* would be updated from the 17th edition (2004) to the 18th edition (2024).

Estimated Benefits and Costs

The proposed amendments would benefit readers of the regulation by ensuring that it is up to date. In particular, updating the regulation would protect the milk industry in Virginia by ensuring that they meet current federal standards and are consistent with the regulations in neighboring states; not updating the regulation would risk action by the US Food and Drug Administration, which could adversely impact these businesses.

As mentioned previously, updating the regulation to reflect the 2023 PMO would also benefit grade “A” milk plants and other businesses that are subject to the PMO by allowing the use of on-tanker farm bulk tank aseptic milk sampling devices and by removing a requirement to list the regulatory agency on the documentation that tracks the movement of bulk milk.

In addition, individuals who are currently permitted under this regulation would benefit from no longer having to renew the permit every year, and VDACS would benefit from no longer having to process the renewals. Likewise, individual dairy plant samplers employed by a grade “A” milk plant would no longer need a permit. Because VDACS does not charge a fee for these permits, the savings would primarily be in terms of removing time costs and administrative burden. Lastly,

Businesses and Other Entities Affected

The proposed amendments would benefit the individuals who are permitted under this regulation and would no longer have to renew their permit, including 260 bulk milk hauler samplers; these permits will remain active until the permit holder cancels it. In addition, there are approximately 140 individual dairy plant samplers who will no longer need to maintain an individual permit; current permit holders may let their permits expire without renewal and new dairy plant samplers would particularly benefit by not having to obtain an individual permit.

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] As noted above, the proposed amendments would update the regulation to match current federal standards, and would also remove requirements for certain individuals to renew permits and for other individuals to obtain a permit. These changes would not increase any costs or decrease net benefits. Thus, an adverse impact is not indicated.

Small Businesses[6] Affected:[7]

The proposed amendments would not adversely affect small businesses.

Localities[8] Affected[9]

The proposed amendments would particularly affect localities with dairy plants. The proposed amendments do not introduce costs for local governments.

Projected Impact on Employment

The proposed amendments would not affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use and value of private property. The proposed amendments do not affect real estate development costs.

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[4] See Code § 2.2-4007.04 (D).
[5] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.
[6] Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."
[7] See Code § 2.2-4007.04 (A.2). and Code § 2.2-4007.1 (C).
[8] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.
[9] Code § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.