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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 – 40
VAC Chapter title(s)	Rules and Regulations Governing the Prevention, Control and Eradication of Bovine Tuberculosis in Virginia
Date this document prepared	July 21, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

VDACS – Virginia Department of Agriculture and Consumer Services

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 and grants the Board the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-6001 of the Code directs the Commissioner, the Board, and the State Veterinarian to use their best efforts to protect livestock and poultry from contagious and infectious disease. This section states, in part, that it shall be the duties of these parties to cooperate with the livestock and poultry disease control officials of other states and with the U.S. Department of Agriculture in establishing quarantine lines and regulations so as to best protect the livestock and poultry of the Commonwealth.

Section 3.2-6002 of the Code directs VDACS to take necessary measures to prevent the spread of and to eradicate contagious and infectious diseases in livestock and poultry. This statute authorizes the Board to adopt regulations as may be needed to effectuate this. This section also authorizes the State Veterinarian to take such necessary actions as to prevent, control, and eradicate Bovine Tuberculosis, a contagious and infectious disease that affects livestock.

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.

This regulation provides for reporting tests for Bovine Tuberculosis to the State Veterinarian and establishes restrictions on the handling and movement of cattle that react to a tuberculin test. This regulation was first promulgated in 1985, and since that time has allowed the State Veterinarian and his deputies to make crucial decisions and take vital actions to protect the health of bovine livestock in Virginia. Without this regulation, cattle across Virginia would be more vulnerable to contracting bovine tuberculosis. Along with USDA rules pertaining to bovine tuberculosis, this regulation is necessary to minimize the effects on Virginia’s cattle industry from this costly disease. Placing infected cattle in quarantine is the least burdensome alternative to prevent the spread of disease. Allowing known infected cattle to remain in the herd is not an acceptable alternative to the cattle industry. The regulation eases the burden of the quarantine requirements by allowing for the issuance of permits to transport infected cattle to slaughterhouses.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s 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 public comments were received during the public comment period following publication of the Notice of Periodic Review on June 2, 2025. An informal advisory group was not formed 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 the ORM procedures, 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 is necessary for the protection of public health, safety, and welfare because it provides protection to the cattle population in Virginia, which is a major component of the public food supply. Since a safe food supply is imperative for the public health, safety, and welfare, it is important that this regulation stay in place for the continued protection of the public. The beef and dairy cattle industries are significant economic sectors in Virginia. This regulation is also important to protect the public against the possible spread of tuberculosis from cattle to humans in the event cattle in Virginia were to become infected with bovine tuberculosis. The regulation is clearly written and easy to understand.

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).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The agency is recommending that this regulation stay in effect without change because it is necessary for the continued protection of the public.

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 important for the beef and dairy cattle industries. Many beef and dairy farms as well as the processing plants that process the cattle are small businesses. Without the safeguards this regulation provides, these small businesses take on a great amount of risk. If Virginia's bovine tuberculosis "free status" is compromised, other states and countries will not purchase Virginia cattle, thereby putting these small businesses out of business. Without this regulation, the threat compromising Virginia's bovine tuberculosis "free status" becomes significantly higher.

The agency has not received any complaints about this regulation.

This regulation is easily understood. The regulation provides concise instructions for handling and reporting cattle that test positive for bovine tuberculosis.

This regulation does not overlap, duplicate, or conflict with federal statute.

Since the last time this regulation was evaluated, there have not been significant changes in technology, economic conditions, or other factors. A periodic review was last completed for this regulation in September 2020, and the agency decided to retain the regulation as is.