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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Milk Commission
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 15-20
VAC Chapter title(s)	Regulations for the Control and Supervision of Virginia's Milk Industry
Date this document prepared	October 4, 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 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.

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 3.2-3204 of the Code of Virginia (Code) authorizes the Milk Commission to adopt regulations necessary to carry out the purpose of the Milk Commission Law (Va. Code § 3.2-3200 *et seq.*), which, in

part, authorizes the Milk Commission to supervise the producer price, supply, and sale of fluid milk in Virginia.

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 the supervision, regulation, and control of the production, processing, transportation, storage, distribution, and sale of milk and cream; protects the well-being of the people of the Commonwealth of Virginia; and promotes the public interest. As the regulation contributes to the viability of the dairy industry in the state, the agency believes the present version is the least burdensome and least intrusive to the citizens and businesses of the Commonwealth.

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.

The agency did not form an informal advisory group for the purpose of assisting in this periodic review.

Commenter	Comment	Agency response
Eric Paulson, Virginia State Dairymen’s Association	Supports regulations as-is	The agency appreciates the commenter’s participation in this periodic review.
Stefanie Taillon, Virginia Farm Bureau Federation	Supports regulations as-is	The agency appreciates the commenter’s participation in this 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 in that it assures that Virginians will have an adequate supply of milk and farmers receive a fair price for their milk. The regulation is clearly written and easily understandable.

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 has determined that the regulation should stay in effect without change because it is necessary to adequately maintain a stable milk market and is effective in its current format. No changes to agency or industry practices have occurred that would necessitate any modifications.

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 Southeastern U.S., including Virginia, is not considered ideal for dairying due to the summer heat and humidity. Milk Commission regulations provide for some incentive for dairy farms, many of which are small businesses, to continue to operate within the state, as the regulations allow for farms that own milk quota to be paid an amount greater than the price established by the federal government.

There have been no complaints from the public concerning the regulation. The regulation is not unnecessarily complex. There is no overlap with the federal or state law or regulations. The agency has determined that no changes have occurred in the area affected by this regulation since the last periodic review that would make it necessary to amend or repeal the regulation. The agency has determined that the current version of the regulation is consistent with current industry practices and is the least burdensome and least intrusive alternative.
