



## Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5 - 540
<b>Regulation title</b>	Rules and Regulations Pertaining to Carbonated and Still Water Bottling Plants and Beverages
<b>Action title</b>	Repeal Regulations
<b>Date this document prepared</b>	12-8-10

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This regulation provides basic sanitary requirements for carbonated and still water bottling plants. The repeal of this regulation is requested because the essential elements of the regulation have already been incorporated into the Virginia Food Laws (Title 3.2, Chapter 51 of the Code of Virginia).

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.*

The Board of Agriculture took action on December 9, 2010 to repeal the following regulations: "Rules and Regulations Pertaining to Carbonated and Still Water Bottling Plants and Beverages"

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Sections 3.2-5101 and 3.2-5121 of the Code of Virginia (1950), as amended provide the legal basis for the promulgation of this regulation and authorize the Board of Agriculture to adopt regulations (as needed) for the efficient enforcement of the Virginia Food Laws. However, we are requesting that the subject regulations be repealed.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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It is proposed that these regulations be rescinded. This proposal resolves the issue of duplicative requirements as the requirements of the subject regulation already exist in the Virginia Food Laws. The requirements ensure that establishments that process carbonated and still water beverages do so in a manner that renders the food/drink safe and unadulterated. Since the requirements of these regulations are already enforced via the Virginia Food Laws, their repeal will result in no negative impact on the health, safety and/or welfare of the citizens of the Commonwealth.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

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Substantive changes will be the repeal of these regulations. All essential requirements relating to the facility, sanitation, restrooms and infectious diseases have already been incorporated into the Virginia Food Laws.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

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It is requested that these regulations be repealed. The primary advantage of this action will be the elimination of duplicative requirements. The elimination of these requirements, which are essentially already part of the Virginia Food Laws, will result in the elimination of potential confusion regarding regulatory requirements relative to certain food establishments. Elimination of duplicative provisions will also result in more efficient enforcement of requirements relating to food safety by agents of the Commonwealth. This will positively impact the public, the food industry and the Commonwealth. There do not appear to be any disadvantages to this particular action.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change

No changes have been made to the text.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Commenter	Comment	Agency response

No comments were received during the process utilized to repeal these regulations..

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

It is requested that these regulations be repealed.

### Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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It is proposed that this regulation be repealed. The essential requirements of this regulation have already been incorporated in to the Virginia Food Laws. Elimination of duplicative requirements will ultimately have a positive impact on the regulated industry. The requirements of this regulation (now incorporated into the Virginia Food Laws) are not burdensome on small businesses and are essential to the providing of a safe food supply for the citizens of Virginia. Exemption from the requirements is not a viable option. There are no "reporting requirements" contained in the regulation (now incorporated into the Virginia Food Laws).

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The impact of the proposed regulatory action on the institution of the family and family stability is from the perspective of foodborne illness and availability of safe food for the consumer. Elimination of the regulation should provide for more efficient, less confusing and more manageable enforcement of food safety requirements for the food industry. This should ultimately result in a safer food supply thus ensuring 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.