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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	2 VAC 5-130
<b>VAC Chapter title(s)</b>	Rules and Regulations Governing Laboratory Fees for Services Rendered or Performed
<b>Date this document prepared</b>	June 14, 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 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.*

No acronyms are used in this report.

### 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 authorizes the Board to adopt regulations in accordance with the provisions of Title 3.2 of the Code. Section 3.2-5903 of the Code directs the Virginia Department of

Agriculture and Consumer Services to maintain and operate a laboratory system for the diagnosis of animal diseases.

### 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.*

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The regulation authorizes the State Veterinarian to collect reasonable fees for animal health laboratory services rendered. The regulation was first promulgated in 1993, and since that time the non-general funds collected under this regulation have supported the operation of the Virginia Animal Health Laboratory System. Allowing fee collection for laboratory services targets much of the support for those services to the industry and client user groups most directly benefiting from those services. Without this fee collection ability, the laboratory system would not be able to provide continuing support to Virginia agricultural interests and the veterinary and animal owner communities. Therefore, alternatives to this regulation were rejected.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency 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.*

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The agency did not receive any comments during the public comment period following the publication of the Notice of Periodic Review on May 23, 2022, and did not form an informal advisory group 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 Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

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The regulation is necessary for the protection of public health, safety, and welfare in that it provides major support to and a source of funding for the operation of the Animal Health Laboratory System. The Animal Health Laboratory System provides frontline monitoring in detecting and preventing animal diseases that could impact public health. Consumers are also protected by the testing of various products including: milk, meat, cheese, ice cream, and water. 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).*

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The agency is recommending that the regulation should stay in effect without change because it is necessary to provide support to the operation of the Animal Health Laboratory System 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.*

There is a continuing need for this regulation in order to support the operation of the Animal Health Laboratory System. There have been no complaints from the public concerning the regulation. The regulation is necessarily uncomplicated. There is no overlap with federal or other state law/regulations. Technology, economic conditions, or other factors have not impacted the need for this regulation, but in fact make the existence of this regulation even more necessary. Economic conditions have resulted in the Animal Health Laboratory System being more dependent on fee revenue to provide the current technology needed to offer services to clients. The primary effect on small business is a beneficial one, as veterinary practices, agricultural businesses, and livestock or other animal owners in the Commonwealth are able to obtain laboratory services near their place of operation and at an affordable price. Therefore, the agency has determined to retain the regulation as-is.