



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**2 VAC 5-510 – Rules and Regulations Governing the Production, Processing, and Sale of Ice Cream, Frozen Dessert, and Similar Products**  
**Virginia Department of Agriculture and Consumer Services**  
January 23, 2008

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### **Summary of the Proposed Amendments to Regulation**

The Board of Agriculture and Consumer Services (Board) has proposed amendments to the regulation that consist of consolidating 31 separate sections into 15 sections, correcting some typographical errors and incorrect citations, and repealing two sections because they have been preempted by federal regulation and law.

### **Result of Analysis**

There are neither benefits nor costs to the proposed changes.

### **Estimated Economic Impact**

The proposed regulation consolidates 31 sections of the current regulation into 15 sections. For example, 2VAC5-510-50 is currently titled “Frozen custard, french ice cream, french custard ice cream; identity; label statement of optional ingredients” and 2VAC5-510-60 is titled “Frozen custard mix, french ice cream mix, and french custard ice cream mix.” Under the proposed amendment, 2VAC5-510-50 will be titled “Frozen custard, french ice cream, french custard ice cream; identity; label statement of optional ingredients; frozen custard mix, french ice cream mix, and french custard ice cream mix,” 2VAC5-510-60 will be repealed, and the text from 2VAC-510-60 will be pasted into 2VAC5-510-50. These proposed amendments do not change anything substantive about the regulation and therefore impose neither costs nor benefits.

The proposed regulation repeals the sections that include the identity statements for ice milk and ice milk mix because the section is unenforceable. These sections were preempted by changes to the federal standards of identity for ice cream and the National Labeling and

Education Act that remove the standard of identity for ice milk so that a reduced fat ice cream product that complies with the existing standard of identity for ice milk no longer needs to be labeled “ice milk” and may be labeled as “reduced fat ice cream.” This change appeared in the Federal Register of September 14, 1994 (59 FR 47072) with an effective date for compliance of September 14, 1995.<sup>1</sup> This amendment, therefore, repeals a section of the Virginia Administrative Code that has not been practically relevant for almost 13 years; repealing it should have no effect on Virginians.

The remaining regulatory amendments simply correct typographical errors, correct citations, or update regulatory language to include the current names for documents or organizations referenced in the regulation. For example, the proposed amendment changes the name “International Association of Milk, Food, and Environmental Sanitarians” to its current name of “International Association of Food Protection.” These changes create neither costs nor benefits for entities in the Commonwealth.

## **Businesses and Entities Affected**

The regulation affects any person or business who manufactures, packages, and sells ice cream and frozen desserts at wholesale. The Virginia Department of Agriculture and Consumer Services estimates that there are 17 small businesses affected by the regulation.

## **Localities Particularly Affected**

The proposed amendments do not disproportionately affect specific localities in the Commonwealth.

## **Projected Impact on Employment**

The proposed amendments are not anticipated to have any impact on employment.

## **Effects on the Use and Value of Private Property**

The proposed amendments are not anticipated to have any effect on the use and value of private property.

## **Small Businesses: Costs and Other Effects**

The proposed amendments do not add cost or otherwise affect small businesses.

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<sup>1</sup> Link: <http://frwebgate2.access.gpo.gov/cgi->

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not add cost or otherwise affect small businesses.

## **Real Estate Development Costs**

The proposed amendments do not create additional costs related to the development of real estate for commercial or residential purposes.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.