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VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Carlos L. Hopkins**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Robert L. Tavenner**.

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PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

August 2014 through August 2015

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
30:26	August 6, 2014	August 25, 2014
31:1	August 20, 2014	September 8, 2014
31:2	September 3, 2014	September 22, 2014
31:3	September 17, 2014	October 6, 2014
31:4	October 1, 2014	October 20, 2014
31:5	October 15, 2014	November 3, 2014
31:6	October 29, 2014	November 17, 2014
31:7	November 12, 2014	December 1, 2014
31:8	November 25, 2014 (Tuesday)	December 15, 2014
31:9	December 10, 2014	December 29, 2014
31:10	December 23, 2014 (Tuesday)	January 12, 2015
31:11	January 7, 2015	January 26, 2015
31:12	January 21, 2015	February 9, 2015
31:13	February 4, 2015	February 23, 2015
31:14	February 18, 2015	March 9, 2015
31:15	March 4, 2015	March 23, 2015
31:16	March 18, 2015	April 6, 2015
31:17	April 1, 2015	April 20, 2015
31:18	April 15, 2015	May 4, 2015
31:19	April 29, 2015	May 18, 2015
31:20	May 13, 2015	June 1, 2015
31:21	May 27, 2015	June 15, 2015
31:22	June 10, 2015	June 29, 2015
31:23	June 24, 2015	July 13, 2015
31:24	July 8, 2015	July 27, 2015
31:25	July 22, 2015	August 10, 2015
31:26	August 5, 2015	August 24, 2015

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF VETERINARY MEDICINE

Initial Agency Notice

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Name of Petitioner: Lee Henkel.

Nature of Petitioner's Request: The petitioner requests (i) an amendment to 18VAC150-20-10 to further define supervision as "direct," "immediate," or "indirect" for greater clarity to the public about the involvement of the supervising veterinarian; (ii) an amendment to 18VAC150-20-130 to require owner notification and consent for practice on an animal by a student, extern, preceptee, intern, or resident; and (iii) an amendment to 18VAC150-20-140 on unprofessional conduct to reflect changes in the supervision definition.

Agency Plan for Disposition of Request: The petition will be published on August 11, 2014, in the Register of Regulations and also posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov to receive public comment ending September 10, 2014. Following receipt of all comments on the petition to amend regulations, the board will decide whether to make any change to the regulatory language. This matter will be on the board's agenda for its first meeting after the comment period, which is scheduled for October 22, 2014.

Public Comment Deadline: September 10, 2014.

Agency Contact: Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-4688, or email elaine.yeatts@dhp.virginia.gov.

VA.R. Doc. No. R14-41; Filed July 15, 2014, 7:53 a.m.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 13 of the Code of Virginia, which excludes the board when promulgating regulations pursuant to § 3.2-5206 of the Code of Virginia.

Title of Regulation: 2VAC5-490. Regulations Governing Grade "A" Milk (amending 2VAC5-490-10 through 2VAC5-490-30, 2VAC5-490-31, 2VAC5-490-33 through 2VAC5-490-37, 2VAC5-490-39, 2VAC5-490-39.3, 2VAC5-490-40 through 2VAC5-490-73, 2VAC5-490-90, 2VAC5-490-100, 2VAC5-490-131, 2VAC5-490-132, 2VAC5-490-136, 2VAC5-490-138, 2VAC5-490-140).

Statutory Authority: § 3.2-5206 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: November 9, 2014.

Agency Contact: Carolyn Peterson, Program Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1452, FAX (804) 371-7792, TTY (800) 828-1120, or email carolyn.peterson@vdacs.virginia.gov.

Background: Regulations Governing Grade "A" Milk, 2VAC5-490, is being updated to reflect the changes in the federal Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision. Virginia's regulation must remain current with and reflect the requirements of the PMO in order for the dairy industry to ship milk interstate. 2VAC5-490 contains the framework necessary to regulate grade "A" milk and milk products. The regulation ensures that milk is obtained from safe sources and is processed in a manner that ensures illness-causing bacteria are not consumed by the citizens of the Commonwealth. The regulation addresses important issues such as adulterated or misbranded milk or milk products, permits, the authority to impound milk and milk products, written warning and suspension notices for violations of certain milk standards, personnel health, and animal health.

Summary:

The proposed amendments update the regulations to reflect changes in the federal Grade "A" Pasteurized Milk

Ordinance (PMO), 2013 Revision, and make other changes. Proposed amendments include:

1. Add definitions to address new developments in the industry, including definitions for "aseptic processing and packaging systems," "clean in place," "contaminated milk," and "food allergen."

2. Eliminate the requirement for official cryoscope (added water) testing in milk since this testing is already performed by the dairy cooperatives as well as by fluid milk processing plants and eliminate regulatory action requirements (warnings, suspension, and reinstatement) for volatile cryoscope results because cryoscope testing will no longer be required;

3. Add minimum frequencies for inspections of dairy farms, milk tank trucks, and milk hauler/samplers;

4. Add a provision requiring that all tests for pasteurized milk and milk products requiring sampling and testing be performed only when test methods are available that are validated by the Food and Drug Administration and accepted by the National Conference on Interstate Milk Shipments;

5. Add requirements for screening or testing of raw milk transported in containers other than bulk milk tankers (i.e., milk cans), which reflects changes in the industry regarding bulk milk containers;

6. Add information regarding the processing requirements for heat-treated cream;

7. Add grade "A" pasteurized condensed standards for temperature and coliform to the grade "A" milk and milk products standards in 2VAC5-490-50;

8. Eliminate certain standards applying to nonfat dry milk, which are quality based and not dairy safety related;

9. Add provisions authorizing the utilization of electronic temperature recording charts on dairy farm bulk tanks, which reflects changes in the industry as well as the 2013 PMO and allows the industry to legally utilize electronic temperature monitoring systems;

10. Add provisions relating to temperature requirements for "milk product flavoring slurries" and cultured cottage cheese, which enables the dairy program to provide specific temperature requirements for these products and processes and further ensures the safety of the milk supply;

11. Incorporate by reference Appendices H and S from the 2013 PMO into the regulation. Appendix H relates to regulatory requirements at the dairy farm level (e.g.,

temperature) and Appendix S addresses aseptic processing requirements at the grade "A" fluid milk processing plant;

12. Add provisions allowing for use of hand drying devices; and

13. Add certain requirements relating to block-bleed-block or mix-proof valves for automatic milking installations to ensure that these machines have proper valves and further ensure that the milk supply remains safe.

Part I

Definitions and Standards of Identity

2VAC5-490-10. Definitions and standards of identity.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"A hazard that is reasonably likely to occur" means a hazard for which a prudent milk plant, receiving station or transfer station operator would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that, in the absence of these controls, the hazard will occur in the particular type of milk, milk product, condensed milk, condensed milk product, dry milk, or dry milk product being processed.

"Abnormal milk" means milk that is visibly changed in color, odor, or texture and is not suitable for sale for grade A purposes.

"Acidified milk" means "acidified milk" as defined in 21 CFR 131.111.

"Acidified milk product" means a product with an acidity of not less than 0.50% expressed as lactic acid, which product is obtained by the addition of food grade acids to pasteurized cream, half-and-half, heavy cream, light cream, lowfat milk, milk, skim milk, or sour cream.

"Acidified sour cream" means "acidified sour cream" as defined in 21 CFR 131.162.

"Adulterated milk" or "adulterated milk product" means any milk, milk product, condensed milk product, or dry milk product ~~which that~~ meets one or more of the conditions specified in Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended (21 USC § 342).

"Aseptically processed milk" or milk product means milk that is hermetically sealed in a container and so thermally processed before or after packaging in conformance with 21 CFR ~~Part~~ Parts 108, 110, and 113 and the provisions of this chapter so as to render the product free of microorganisms capable of reproducing in the product under nonrefrigeration conditions of storage and distribution and that is free of viable microorganisms (including spores) capable of causing disease in humans.

~~"Aseptically processed milk product" means any milk or milk product that is hermetically sealed in a container and so thermally processed before or after packaging in conformance~~

~~with 21 CFR Part 113 and the provisions of this chapter so as to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution and that is free of viable microorganisms (including spores) capable of causing disease in humans.~~

"Aseptic processing and packaging" means that the product has been subjected to sufficient heat processing and packaged in a hermetically sealed container, to conform to the applicable requirements of 21 CFR ~~Part~~ Parts 108, 110, and 113 and the provisions of this chapter and to maintain the commercial sterility of the product under normal nonrefrigerated conditions. Aseptic processing and packaging includes low-acid grade A aseptic and packaged milk products.

"Aseptic processing and packaging system" or "APPS" means the aseptic processing and packaging system in a milk plant that is comprised of the processes and equipment used to process and package aseptic grade A milk or milk products. The APPS shall be regulated in accordance with the applicable requirements of 21 CFR Parts 108, 110, and 113. The APPS shall begin at the constant level tank and end at the discharge of the packaging machine, provided that the process authority may provide written documentation that will clearly define additional processes or equipment that are considered critical to the commercial sterility of the product.

"Audit" means an evaluation of the entire milk plant, receiving station, or transfer station facility and HACCP ~~System~~ system to ensure compliance with the voluntary HACCP program requirements of this chapter, with the exception of the APPS for aseptic processing and packaging of milk plants.

"Automatic milking installation" means the entire installation of one or more automatic milking units, including the hardware and software utilized in the operation of individual automatic milking units, the animal selection system, the automatic milking machine, the milk cooling system, the system for cleaning and sanitizing the automatic milking unit, the teat cleaning system, and the alarm systems associated with the process of milking cooling, cleaning, and sanitation.

"Boiled custard" means "eggnog" as defined in 21 CFR 131.170.

"Bulk milk hauler sampler" means any person who holds a permit issued by the Virginia Department of Agriculture and Consumer Services to collect official milk samples and transport: (i) raw milk from a dairy farm to a milk plant, receiving station, or transfer station; or (ii) raw milk products from one milk plant, receiving station, or transfer station to another milk plant, receiving station, or transfer station.

"Bulk milk pickup tanker" means a vehicle, including the truck, tank, and those appurtenances necessary for its use, used by a bulk milk hauler sampler to transport bulk raw milk for pasteurization, ultra-pasteurization, aseptic processing and

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packaging, or retort processed after packaging from a dairy farm to a milk plant, receiving station, or transfer station.

"Buttermilk" means the fluid milk product that remains after the manufacture of butter from milk or cream and contains not less than 8.25% of milk solids not fat.

"Cancel" means to permanently nullify, void, or delete a grade A permit issued by the State Regulatory Authority.

"Centralized deviation log" means a centralized log or file identifying data detailing any deviation of critical limits and the corrective actions taken, as referred to in Appendix K of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision."

"CFR" means the Code of Federal Regulations.

"Clean" means the surfaces of equipment and facilities have had an effective and thorough removal of product, soils, and contaminants.

"Clean in place" or "CIP" means the removal of soil from product contact surfaces in the surface's process position by circulating, spraying, or flowing chemical solutions and water rinses onto and over the surfaces to be cleaned. Components of the equipment that are not designed to be CIP are removed from the equipment to be cleaned out of place (COP) or manually cleaned. Product contact surfaces shall be inspectable, except when the cleanability by CIP has been documented and accepted by the State Regulatory Authority. In such accepted equipment, all product and solution contact surfaces are not required to be readily accessible for inspection (i.e., permanently installed pipelines and silo tanks).

"Cleaned out of place" or "COP" means manually cleaned or not designed to be CIP.

"Coffee cream" means "light cream."

"Commercially sterile" means (i) the food has been thermally processed by the application of heat to render the food free of viable microorganisms (including spores) of public health significance and microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution; or (ii) the food has been processed with the application of heat, and the water activity of the food has been controlled to render the food free of microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution.

"Common name" means the generic term commonly used for domestic animals (i.e., cattle, goats, sheep, water buffalo).

"Concentrated milk" means "concentrated milk" as defined in 21 CFR 131.115.

"Concentrated milk product" means any of the following foods: homogenized concentrated milk, homogenized concentrated skim milk, concentrated lowfat milk, concentrated milk, and concentrated skim milk, which when combined with potable water according to the instructions printed on the food's container, conforms to the definition of the corresponding milk product in this chapter.

"Concentrated or condensed buttermilk" means product resulting from the removal of a considerable portion of water from buttermilk and complies with all applicable requirements of this chapter.

~~"Condensed buttermilk" means the product resulting from the removal of a considerable portion of water from buttermilk.~~

"Condensed and dry milk product" means grade A condensed milk, grade A condensed and dry whey, grade A dry milk product, or grade A dry milk and whey product.

"Condensed milk" means concentrated milk as defined in 21 CFR 131.115. This definition does not include:

1. Any sterilized milk or milk product, when the sterilized milk or milk product is hermetically sealed in a container and processed, either before or after sealing, so as to prevent microbial spoilage; or
2. Any evaporated milk or sweetened condensed milk, except when the evaporated milk or sweetened condensed milk is combined with other substances in the commercial preparation of any pasteurized, ultra-pasteurized, or aseptically processed and packaged milk or milk product.

"Condensed whey" means "condensed whey" as defined in 21 CFR 184.1979(a)(2).

"Consumer" means any person who uses any grade A milk, grade A milk product, or milk product.

"Contaminated milk" means milk that is unsaleable or unfit for human consumption following treatment of the animal with veterinary products (i.e., antibiotics that have withhold requirements or treatment with medicines or insecticides not approved for use on dairy animals by FDA or the Environmental Protection Agency).

"Corrective action" means procedures followed when a deviation occurs.

"Cottage cheese" means "cottage cheese" as defined in 21 CFR 133.128.

"Cottage cheese dry curd" means "dry curd cottage cheese."

"Cream" means "cream" as defined in 21 CFR 131.3(a).

"Critical control point" or "CCP" means a step at which control can be applied and is essential to prevent or eliminate a milk, milk product, condensed milk, condensed milk product, dry milk, or dry milk product safety hazard or reduce it to an acceptable level.

"Critical limit" means a maximum value or a minimum value to which a biological, chemical, or physical parameter ~~must~~ shall be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of a milk, milk product, condensed milk, condensed milk product, dry milk, or dry milk product safety hazard.

"Cultured half-and-half" means "sour half-and-half."

"Cultured milk" means "cultured milk" as defined in 21 CFR 131.112.

"Cultured sour cream" means "sour cream."

"Dairy farm" means any place or premises (i) where any cow, goat, sheep, water buffalo, or other mammal (except humans) is kept, for milking purposes; or (ii) from which cow, goat, sheep, water buffalo, or other mammal (except humans) milk or any milk product is sold or offered for sale for human consumption or provided to a milk plant, cheese plant, frozen desserts plant, transfer station, or receiving station.

"Deficiency" means an element that is inadequate or missing from the requirements of a HACCP ~~System~~ system or with the voluntary HACCP program requirements of this chapter.

"Deny" means the State Regulatory Authority will not issue a grade A permit to the applicant.

"Deviation" means a failure to meet a critical limit.

"Drug" means: (i) articles recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; (ii) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (iii) articles other than food intended to affect the structure or any function of the body of man or other animals; and (iv) articles intended for use as a component of any articles specified in clause (i), (ii), or (iii) of this definition, but does not include devices or their components, parts, or accessories.

"Dry buttermilk" means "dry buttermilk" as defined in 7 CFR 58.251.

"Dry buttermilk product" means "dry buttermilk product" as defined in 7 CFR 58.251.

"Dry cream" means "dry cream" as defined in 21 CFR 131.149.

"Dry curd cottage cheese" means "dry curd cottage cheese" as defined in 21 CFR 133.129.

"Dry milk product" means a product resulting from the drying of any milk or milk product and any product resulting from the combination of a dry milk product with other safe and suitable dry ingredients.

"Dry whey" means "dry whey" as defined in 21 CFR 184.1979.

"Dry whey product" means a product resulting from the drying of whey or whey products and any product resulting from the combination of dry whey products with other wholesome dry ingredients.

"Dry whole milk" means "dry whole milk" as defined in 21 CFR 131.147.

"Eggnog" means "eggnog" as defined in 21 CFR 131.170.

"Eggnog-flavored milk" means a milk product, to which an emulsifier and a maximum of 0.5% stabilizer may have been added consisting of a mixture of (i) at least 3.25% butterfat, (ii) at least 0.5% egg yolk solids, (iii) sweetener, and (iv) flavoring.

"FDA" means the United States Food and Drug Administration.

"Flavored milk" means milk to which a flavor or sweetener has been added.

"Flavored milk product" means any milk product to which a flavor or sweetener has been added.

"Food allergen" means the proteins in foods that are capable of inducing an allergic reaction or response in some individuals and means "food allergen" as defined in the Food Allergen Labeling and Consumer Protection Act of 2004 (21 USC § 301 et seq.).

"Fortified milk" means milk, other than vitamin D milk, the vitamin or mineral content of which milk has been increased.

"Fortified milk product" means any milk product, other than a vitamin D milk product, the vitamin or mineral content of which milk product has been increased.

"Frozen milk concentrate" means the frozen milk product ~~which, that~~ when water is added in accordance with instructions on the package containing the frozen milk product, the reconstituted milk product contains the percentage of milkfat and the percentage of milk solids not fat of milk. Frozen milk concentrate is stored, transported, and sold in a frozen state.

"Goat milk" means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy goats ~~which, that~~ when sold in retail packages, contains not less than 2.5% milkfat and not less than 7.5% nonfat milk solids not fat.

"Grade A buttermilk" or "grade A buttermilk product" means buttermilk from butter made from grade A cream, which has been pasteurized prior to use in accordance with item 16p of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision," provided that this requirement shall not be construed as barring any other heat treatment process that has been recognized by FDA to be equally efficient in the destruction of staphylococcal organisms and that is approved by the State Regulatory Authority.

"Grade A condensed and dry whey" means condensed or dry whey ~~which that~~ complies with the provisions of the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision" and this chapter.

"Grade A condensed milk" means condensed milk ~~which that~~ complies with the provisions of the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision" and this chapter.

"Grade A dry milk product" means any dry milk product ~~which that~~ complies with the provisions of the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision" and this chapter.

"Grade A dry milk and whey product" means any dry milk or whey product ~~which that~~ has been produced for use in any grade A pasteurized, ultra-pasteurized, or aseptically

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processed and packaged milk product; and ~~which that~~ has been manufactured under the provisions of the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision" and this chapter.

"Grade A permit" means the written document issued by the ~~state regulatory authority~~ State Regulatory Authority to the person who operates a: (i) dairy farm to produce raw milk for pasteurization, ultra-pasteurization, or aseptic processing; (ii) milk plant; (iii) receiving station; (iv) transfer station; (v) milk condensing plant; (vi) milk drying plant; (vii) whey condensing plant; or (viii) whey drying plant; after the State Regulatory Authority has inspected and approved the person's operation and determined the person's compliance with the provisions of this chapter for the operations specified in this definition.

"Grade A whey" means whey from cheese made from grade A raw milk for pasteurization, ultra-pasteurization, aseptic processing and packaging, or retort processed after packaging, that has been manufactured under the provisions of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision" and this chapter.

~~"HACCP" means hazard analysis critical control point.~~

"HACCP plan" means the written document, which is based upon the principles of HACCP and delineates the procedures to be followed.

"HACCP system" means the implemented HACCP plan and prerequisite programs, including other applicable requirements of the voluntary HACCP program of this chapter.

"Half-and-half" means "half-and-half" as defined in 21 CFR 131.180.

"Hazard" means a biological, chemical, or physical agent that is reasonably likely to cause illness or injury in the absence of its control.

"Hazard analysis" means the process of collecting and evaluating information on hazards associated with the milk, milk product, condensed milk, condensed milk product, dry milk, or dry milk product under consideration, to decide which are reasonably likely to occur and must be addressed in the HACCP plan.

"Hazard analysis critical control point" or "HACCP" means a systematic approach to the identification, evaluation, and control of significant milk and milk product safety hazards.

"Heavy cream" means "heavy cream" as defined in 21 CFR 131.150.

"Lactose-reduced lowfat milk" means the product resulting from the addition of safe and suitable enzymes to convert enough lactose to glucose or galactose so that less than 30% of the lactose remains in the lowfat milk from which the product is made.

"Lactose-reduced milk" means the product resulting from the addition of safe and suitable enzymes to convert enough

lactose to glucose or galactose so that less than 30% of the lactose remains in the milk from which the product is made.

"Lactose-reduced skim milk" means the product resulting from the addition of safe and suitable enzymes to convert enough lactose to glucose or galactose so that less than 30% of the lactose remains in the skim milk from which the product is made.

"Light cream" means "light cream" as defined in 21 CFR 131.155.

"Light whipping cream" means "light whipping cream" as defined in 21 CFR 131.157.

"Low-acid aseptic milk and retort milk and milk products" means milk or milk products having a water activity (aw) greater than 0.85 and a finished equilibrium pH greater than 4.6 and that are regulated under 21 CFR Parts 108, 110, and 113. Low-acid aseptic milk and retort milk and milk products are stored under normal nonrefrigerated conditions. Excluded from this definition are low-acid milk and milk products that are labeled for storage under refrigerated conditions.

"Lowfat dry milk" means "lowfat dry milk" as defined in 21 CFR 131.123.

"Lowfat yogurt" means "lowfat yogurt" as defined in 21 CFR 131.203.

"Low-sodium lowfat milk" means the milk product resulting from the treatment of lowfat milk by a process of passing the lowfat milk through an ion exchange resin process, or by any other process ~~which that~~ has been recognized by the Food and Drug Administration that effectively reduces the sodium content of the product to less than 10 milligrams in 100 milliliters.

"Low-sodium milk" means the milk product resulting from the treatment of milk by a process of passing the milk through an ion exchange resin process, or by any other process ~~which that~~ has been recognized by the Food and Drug Administration that effectively reduces the sodium content of the product to less than 10 milligrams in 100 milliliters.

"Low-sodium skim milk" means the milk product resulting from the treatment of skim milk by a process of passing the skim milk through an ion exchange resin process, or by any other process ~~which that~~ has been recognized by the Food and Drug Administration that effectively reduces the sodium content of the product to less than 10 milligrams in 100 milliliters.

~~"Market milk" means milk.~~

~~"Market milk product" means milk product.~~

"Milk" means the whole, fresh, clean lacteal secretion obtained by the complete milking of one or more healthy cows, goats, sheep, water buffalo, or other mammal (except humans) intended for human consumption excluding that obtained before and after birthing, for such a period as may be necessary to render the milk practically colostrum free.

"Milk condensing plant" means any plant in which milk or any milk product is condensed or dried, or in which milk or any milk product is received, separated, or otherwise processed for drying and packaging.

"Milk distributor" means any person who offers for sale or sells to another any milk or milk product.

"Milk drying plant" means any plant in which milk or any milk product is condensed or dried, or in which milk or any milk product is received, separated, or otherwise processed for drying and packaging.

"Milkfat" means the fat of milk.

"Milkhouse" means the building or room in which there is conducted on a grade A dairy farm (i) the cooling, handling, and storing of milk and (ii) the washing, sanitizing, and storing of milk containers and utensils.

"Milk plant" means any place, premises, or establishment where any milk or milk product is collected, handled, processed, stored, pasteurized, ultra-pasteurized, aseptically processed and packaged, retort processed after packaged, condensed, dried, packaged, bottled, or prepared for distribution.

"Milk producer" means any person who operates a dairy farm and who provides, sells, or offers milk for sale for human consumption or to a milk plant, receiving station, or transfer station.

"Milk product" means grade A milk and grade A milk products meeting the requirements of 2VAC5-490-15.

"Misbranded milk" or "misbranded milk product" means any milk, milk product, or condensed and dry milk product that: (i) satisfies any of the conditions specified in § 403 of the Federal Food, Drug, and Cosmetic Act, as amended (21 USC § 343); (ii) does not conform to its definition; or (iii) is not labeled in accordance with 2VAC5-490-40.

"Monitor" means to conduct a planned sequence of observations or measurements to assess whether a CCP is under control or to assess the conditions and practices of all required prerequisite programs.

"NCIMS" means the National Conference on Interstate Milk Shipments.

"Nonconformity" means a failure to meet specified requirements of the HACCP system.

"Nonfat dry milk" means "nonfat dry milk" as defined in 21 CFR 131.125.

"Nonfat dry milk fortified with vitamins A and D" means "nonfat dry milk fortified with vitamins A and D" as defined in 21 CFR 131.127.

"Nonfat yogurt" means "nonfat yogurt" as defined in 21 CFR 131.206.

"Normal storage" means storage at a temperature of 45°F or cooler, but does not include freezing.

"Official laboratory" means a biological, chemical, or physical laboratory operated by the Commonwealth of Virginia.

"Officially designated laboratory" means: (i) a commercial laboratory authorized by the State Regulatory Authority to examine milk, milk product, condensed and dry milk product, producer samples of Grade "A" raw milk for pasteurization, or commingled milk tank truck samples of raw milk or milk products or (ii) a milk-industry laboratory authorized by the State Regulatory Authority to examine milk producer samples of raw milk for pasteurization, and for drug residues and bacterial limits, samples of raw milk commingled in a tank truck.

"Pasteurization" or "pasteurized" means the process of heating every particle of milk or milk product in equipment designed and operated in conformance with this chapter, to one of the temperatures given in the following table and held continuously at or above that temperature for at least the corresponding specified time for the equipment indicated:

Temperature	Time	Equipment
145°F*	30 minutes	Vat Pasteurization
161°F*	15 seconds	High Temperature Short Time
191°F	1.0 second	High Temperature Short Time
194°F	0.5 second	High Temperature Short Time
201°F	0.1 second	High Temperature Short Time
204°F	0.05 second	High Temperature Short Time
212°F	0.01 second	High Temperature Short Time

*If: (i) the fat content of the milk or milk product is 10% or greater; (ii) the total solids content of the milk or milk product is 18% or greater; or (iii) the milk or milk product contains added sweeteners, then pasteurization means increasing the specified temperature by 5°F.

*If the dairy product is cream for butter-making, then "pasteurization" means heating to at least 165°F and holding continuously in a vat pasteurizer for not less than 30 minutes or pasteurizing by the High Temperature Short Time method at a minimum temperature of not less than 185°F for not less than 15 seconds.

*If the milk product is eggnog, then "pasteurization" means heating to at least the following temperatures for the corresponding time specifications and equipment:

Temperature	Time	Equipment
155°F	30 minutes	Vat Pasteurization
175°F	25 seconds	High Temperature Short Time
180°F	15 seconds	High Temperature Short Time

Nothing in this definition shall be construed as barring any other process which that has been recognized by the Food and Drug Administration as being equally efficacious as

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pasteurization, so long as that other process has been approved by the State Regulatory Authority.

"Person" means any individual, plant operator, partnership, corporation, company, firm, trustee, or institution.

"Prerequisite programs" means procedures, including ~~Good Manufacturing Practices~~ good manufacturing practices, that address operational conditions that provide the foundation for the HACCP system.

"Process authority" means a certified microbiologist who has expert knowledge of thermal processing requirements for low-acid foods, acquired through appropriate education, training, and experience. The process authority must possess advanced testing equipment that will allow them to conduct necessary testing.

"Public" means any person in the Commonwealth.

"Pull date" means the date affixed to a consumer package or container of grade A pasteurized milk or grade A pasteurized milk product ~~which that~~ is the date after the day of manufacturing and processing of the package or container and the last day on which the grade A pasteurized milk or grade A pasteurized milk product as determined by the milk plant may be offered for sale to consumers under normal storage.

~~"Raw milk" means: (i) any milk or any milk product which that has not been pasteurized, ultra-pasteurized, or aseptically processed; or (ii) or any milk or any milk product which has been pasteurized, ultra pasteurized, or aseptically processed and which has been exposed to microbiological contamination before, during, or after packaging and packaged, or retort processed after packaging.~~

"Receiving station" means any place, premises, or establishment where raw milk is: (i) received, collected, handled, stored, or cooled; and (ii) prepared for further transporting.

"Recombined milk" means the food ~~which, that~~ when combined with potable water according to the instructions printed on the food's container, conforms to the milk fat and nonfat milk solids requirements for milk, as specified in the definition of "milk."

"Recombined milk product" means the food ~~which, that~~ when combined with potable water according to the instructions printed on the food's container, conforms to the milk fat and milk nonfat solids requirements for the milk product designated on the food's container.

"Reconstituted milk" means "recombined milk."

"Reconstituted milk product" means "recombined milk product."

"Reduced lactose whey" means "reduced lactose whey" as defined in 21 CFR 184.1979a.

"Reduced minerals whey" means "reduced minerals whey" as defined in 21 CFR 184.1979b.

"Retort processed after packaging" means the milk and or milk product has been subjected to sufficient retort heat

processing after packaged in a hermetically sealed container, to conform to the applicable requirements of 21 CFR Parts 108, 110, and 113 and to maintain the commercial sterility of the milk and milk product under normal nonrefrigerated conditions.

"Retort processed after packaging system" or "RRPS" means the processes and equipment used to retort process after packaging low-acid grade A milk and milk products. The RRPS shall be regulated in accordance with the applicable requirements of 21 CFR Parts 108, 110, and 113. The RRPS shall begin at the container filler and end at the palletizer, provided that the process authority may provide written documentation that will clearly define additional processes and equipment that are considered critical to the commercial sterility of the milk and milk products.

"Revoke" means to permanently annul, repeal, rescind, countermand, or abrogate a ~~Grade grade~~ A permit issued by the State Regulatory Authority.

"Safe and suitable" means "safe and suitable" as defined in 21 CFR 130.3(d).

"Sanitization" means the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable, and when used does not adversely affect: (i) the equipment ~~which that~~ comes in contact with milk, milk product, or condensed and dry milk product; (ii) the milk, milk product, or condensed and dry milk product; or (iii) the health of consumers.

"Septage" means material accumulated in a pretreatment system or privy.

"Sewage" means water-carried and nonwater-carried human excrement; kitchen, laundry, shower, bath, or lavatory wastes separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sheep milk" means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy sheep.

"Sour cream" means "sour cream" as defined in 21 CFR 131.160.

"State Regulatory Authority" means the Commissioner of Agriculture and Consumer Services or his agent when carrying out any duty specified in § 3.2-5207 of the Code of Virginia or the State Health Commissioner or his agent when carrying out any duty specified in § 3.2-5208 of the Code of Virginia.

"Suspend" means to temporarily nullify, void, debar, or cease for a period of time a grade A permit issued by the State Regulatory Authority.

"Sweetened condensed milk" means "sweetened condensed milk" as defined in 21 CFR 131.120.

"Table cream" means "light cream" as defined in 21 CFR 131.155.

"Transfer station" means any place, premises, or establishment where milk or milk products are transferred directly from one milk tank truck to another.

"Trim" means to shorten the hair on the udder and tail of milking cows and goats by clipping, singeing, cutting, or other means.

"Ultra-pasteurized" means, when used to describe any milk or milk product, that the milk or milk product has been thermally processed at a temperature of 280°F (138°C) or hotter for at least two seconds, either before or after packaging, so as to produce a product that has an extended shelf life under ~~normal storage~~ refrigerated conditions as defined in 21 CFR 131.3.

"Undesirable milk" means milk that, prior to the milking of the animal, is expected to be unsuitable for sale, such as milk containing colostrum.

"Validation" means the element of verification focused on collecting and evaluating scientific and technical information to determine whether the HACCP plan, when properly implemented, will effectively control the hazards.

"Verification" means those activities, other than monitoring, that determine the validity of the HACCP plan and that the HACCP system is operating according to the plan.

"Vitamin A milk" means milk, the vitamin A content of which has been increased to at least 2000 International Units per quart.

"Vitamin A milk product" means a milk product, the vitamin A content of which has been increased to at least 2000 International Units per quart.

"Vitamin D milk" means milk, the vitamin D content of which has been increased to at least 400 International Units per quart.

"Vitamin D milk product" means a milk product, the vitamin D content of which has been increased to at least 400 International Units per quart.

"Water buffalo milk" means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy water buffalo.

"Whey" means "whey" as defined in 21 CFR 184.1979.

"Whey condensing plant" means a plant in which whey is condensed or in which whey is received and processed for drying and packaging.

"Whey drying plant" means a plant in which whey is dried or in which whey is received and processed for drying and packaging.

"Whey product" means any fluid product removed from whey, or made by the removal of any constituent from whey, or by the addition of any wholesome substance to whey or parts thereof.

"Whipped cream" means "heavy cream" as defined in 21 CFR 131.150 or "light whipping cream" as defined in 21 CFR 131.157, into which air or gas has been incorporated.

"Whipped light cream" means "light whipped cream" as defined in 21 CFR 131.155, into which air or gas has been incorporated.

"Whipping cream" means "light whipping cream" as defined in 21 CFR 131.157.

"Yogurt" means "yogurt" as defined in 21 CFR 131.200.

Part II

Grade A Milk and Milk Products

2VAC5-490-15. Grade A milk and milk products.

A. Grade A milk and milk products regulated under this chapter include:

1. All grade A raw milk or milk products for pasteurization, ultra-pasteurization, aseptic processing and packaging, or retort processed after packaging, and all grade A pasteurized, ultra-pasteurized, aseptically processed and packaged, or retort processed and packaged milk and milk products;

~~1.~~ 2. All milk and milk products with a standard of identity provided for in 21 CFR Part 131, with the exception of 21 CFR 131.120 sweetened condensed milk;

~~2.~~ 3. Cottage cheese as defined by 21 CFR 133.128 and dry curd cottage cheese as defined by 21 CFR 131.129;

~~3.~~ 4. Whey and whey products as defined in 21 CFR 184.1979, 21 CFR 184.1979a, 21 CFR 184.1979b, and 21 CFR 184.1979c; whey product; dry whey product; and grade A condensed and dry whey and whey products;

4. 5. Modified versions of these foods listed in subdivisions ~~1~~ 2 and ~~2~~ 3 of this subsection, pursuant to 21 CFR 130.10 – Requirements for foods named by use of a nutrient content claim and a standardized term;

~~5.~~ 6. Milk and milk products as defined in subdivisions ~~1~~, 2, 3, 4, and 5 of this subsection, packaged in combination with other food or foods not included in this section that are appropriately labeled with a statement of identity to describe the food in final package form (e.g., "cottage cheese with pineapple" or "fat free milk with plant sterols"); and

~~6.~~ 7. Products not included in subdivisions ~~1~~ 2 through ~~5~~ 6 of this subsection shall be grade A milk products if they contain a minimum of (i) 2.0% milk protein as determined by total ~~kjeldahl nitrogen~~ Kjeldahl Nitrogen (TKN) X 6.38; and (ii) a minimum of 65% by weight milk, milk product, or a combination of milk products.

B. Safe and suitable, as defined in 21 CFR 130.3(d), nongrade A dairy ingredients may be utilized in the production of grade A milk and milk products included under 2VAC5-490-15 A when added to a level needed for a functional or technical effect; limited by good manufacturing practices (GMPs); and are either (i) prior sanctioned or

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otherwise approved by the federal Food and Drug Administration, (ii) generally recognized as safe (~~GRAS~~), or (iii) an approved food additive listed in the Code of Federal Regulations with the exception that for those grade A milk and milk products for which a federal standard of identity has been established only ingredients provided for under the standard of identity for each grade A milk or milk product may be utilized. Nongrade A dairy ingredients shall not be used to increase the weight or volume of grade A milk or milk products or to displace any grade A dairy ingredients nor shall using nongrade A dairy ingredients to increase the weight or volume of grade A milk or milk products be considered a suitable functional or technical effect.

C. Grade A milk and milk products shall also include those milk and milk products included under 2VAC5-490-15 A and 2VAC5-490-15 B that have been aseptically processed and then packaged.

D. Grade A milk and milk products shall not include:

1. A milk or milk product in which the milkfat of the milk or milk product has been substituted in part or in whole by any other animal or vegetable fat; provided that other fat sources may be included when they are used for purposes currently accepted in any other grade A milk or milk product, such as carriers for vitamins and as an ingredient in emulsifiers and stabilizers;
2. Coffee based products where coffee or water is the primary ingredient as indicated in the ingredient statement;
3. Tea based products where tea or water is the primary ingredient as indicated in the ingredient statement;
4. Dietary products (except as defined in 21 CFR 130.10);
5. Infant formula;
6. Ice cream or other frozen desserts;
7. Butter;
8. Standardized cheese with the exception of cottage cheese as defined under 21 CFR 133.128 and dry curd cottage cheese as defined under 21 CFR 131.129 and nonstandardized cheese; or
9. Puddings.

E. Milk and milk products ~~which that~~ have been retort processed after packaging, or ~~which that~~ have been concentrated (condensed) or dried shall conform to the requirements of 2VAC5-490-15 A and 2VAC5-490-15 B if they are utilized as an ingredient in any grade A milk or milk product, or if they are labeled as grade A under 2VAC5-490-15 A 4 5.

F. Powdered dairy blends may be labeled grade A and used as ingredients in grade A milk and milk products, such as cottage cheese dressing mixes or starter media for cultures used to produce various grade A cultured milk and milk products, if they meet the requirements of this chapter. If powdered dairy blends are used as an ingredient in grade A milk and milk products, blends of dairy powders must be

blended under conditions ~~which that~~ meet all applicable grade A powdered dairy blends requirements. Grade A powder blends must be made from grade A powdered milk and milk products, except that small amounts of functional ingredients not to exceed 10% by weight of the finished blend ~~which that~~ are not grade A are allowed in grade A blends when the finished ingredient is not available in grade A form (e.g., sodium caseinate).

G. Grade A milk and milk products include the following: acidified lowfat milk, acidified nonfat milk, acidified milk, acidified milk product, acidified reduced fat milk, acidified skim milk, acidified sour cream, acidified sour half-and-half, aseptically processed milk, aseptically processed milk product, boiled custard, buttermilk, coffee cream, concentrated milk, concentrated milk product, condensed buttermilk, cottage cheese, cottage cheese dry curd, cream, cultured half-and-half, cultured milk, cultured lowfat milk, cultured nonfat milk, cultured reduced fat milk, cultured skim milk, cultured sour cream, cultured sour half-and-half, dry buttermilk, dry buttermilk product, dry cream, dry curd cottage cheese, dry whole milk, eggnog, eggnog-flavored milk, flavored milk, flavored milk product, fortified milk, fortified milk product, frozen milk concentrate, goat milk, half-and-half, heavy cream, heavy whipping cream, lactose-reduced lowfat milk, lactose-reduced nonfat milk, lactose-reduced milk, lactose-reduced reduced fat milk, lactose-reduced skim milk, light cream, light whipping cream, lowfat cottage cheese, lowfat dry milk, lowfat milk, lowfat yogurt, low-sodium lowfat milk, low-sodium nonfat milk, low-sodium milk, low-sodium reduced fat milk, low-sodium skim milk, milk, nonfat milk, nonfat dry milk, nonfat dry milk fortified with vitamins A and D, nonfat yogurt, recombined milk, recombined milk product, reconstituted milk, reconstituted milk product, reduced lactose whey, reduced fat milk, reduced minerals whey, sheep milk, skim milk, sour cream, sour half-and-half, table cream, vitamin A milk, vitamin A milk product, vitamin D milk, vitamin D milk product, whipped cream, whipped light cream, whipping cream, and yogurt.

~~H. Persons holding a valid permit on January 1, 2011, to receive and process milk for manufacturing purposes pursuant to 2VAC5-531-50 of the Regulations Governing Milk for Manufacturing Purposes and who have manufactured dairy products not previously considered to be grade A dairy products prior to January 1, 2011, may continue to manufacture and sell those specific dairy products they produced prior to January 1, 2011, after December 10, 2010; however, this limited exemption shall not apply to any new or revised dairy products the permit holder wishes to manufacture if the new or revised dairy product is considered to be grade A.~~

Part III

Adulterated or Misbranded Milk or Milk Products

2VAC5-490-20. Adulterated or misbranded milk or milk products.

A. No person may produce, provide, sell, offer, expose for sale, or possess with intent to sell any adulterated or misbranded: condensed milk product₂; dry milk product₂; milk₂; or milk product.

B. Each person who produces, provides, sells, offers, exposes for sale, or possesses any adulterated or misbranded: condensed milk product₂; dry milk product₂; milk₂; or milk product shall be subject to having the person's adulterated or misbranded: condensed milk product, dry milk product, milk, or milk product impounded by the State Regulatory Authority.

C. No person may provide, sell, offer, or expose for sale any: condensed milk product₂; dry milk product₂; milk₂; or milk product to any milk plant for use in any grade A milk or grade A milk product if the person does not possess a permit from the State Regulatory Authority, unless the Commissioner of Agriculture and Consumer Services makes a finding in writing (which the Commissioner of Agriculture and Consumer Services may renew for terms not to exceed 90 days per term, without limitation) that: (i) the supply of grade A raw milk for pasteurization, ultra-pasteurization, or aseptic processing is not adequate to meet the nutritional needs of any person who secures milk in the Commonwealth; or (ii) the supply of pasteurized, ultra-pasteurized, or aseptically processed milk or milk product at retail is not available for purchase by any person who secures milk in the Commonwealth.

D. No person may produce, provide, sell, offer, expose for sale, or possess any: condensed milk product₂; dry milk product₂; milk₂; or milk product; under the provision of subsection C of this section unless the condensed milk product, dry milk product, milk₂ or milk product is labeled "ungraded."

2VAC5-490-25. Impounding of adulterated or misbranded condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product.

The State Regulatory Authority shall comply with the following administrative procedures when impounding any adulterated or misbranded condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product to prevent movement of these products until such violations of critical processing elements have been corrected:

1. The State Regulatory Authority shall serve the person with a written impoundment notice. The written impoundment notice shall specify the violations and inform the person of the opportunity to appear before the State Regulatory Authority in person, by counsel, or by other qualified representative at a fact-finding conference

for the informal presentation of factual data, arguments, and proof to contest the written notice of violation.

2. The written impoundment notice shall include:

- a. The name of the adulterated or misbranded condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product;
- b. The size and number of separate units in the lot being impounded;
- c. The product code and sell by date for the lot of product, if each exists; and
- d. A statement directing the person to:

(1) Immediately remove from sale the entire lot of adulterated or misbranded condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product;

(2) Isolate and identify as not for sale the entire lot of adulterated or misbranded condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product in the person's storage area in a location separate from any storage accessible from a retail sales area; and

(3) Comply with one of the following options:

(a) If the condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product is adulterated: (i) the entire lot shall be destroyed or (ii) the entire lot shall be held and returned to the manufacturer, distributor, or producer; or

(b) If the condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product is misbranded: (i) the entire lot shall be destroyed; (ii) the entire lot shall be held and returned to the manufacturer, distributor, or producer; or (iii) the entire lot shall be held and new labels affixed to each container in the lot ~~which~~ that comply with all provisions for labeling of condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product contained in this chapter prior to being offered for sale.

Part IV
Permits**2VAC5-490-30. Permits.**

A. No person may produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth, or bring, send, or receive into the Commonwealth, any milk, milk product, ~~market milk, market milk product~~ or condensed and dry milk product for use in the commercial preparation of grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaging milk or milk product unless the person possesses a grade A permit from the State Regulatory Authority. Nothing in this chapter shall be deemed to require a person who is a broker, agent, or distributor's representative to have a grade A permit if the person buys condensed and dry milk product for, or sells

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condensed and dry milk product to, a milk plant that has a valid grade A permit from any state.

B. Only a person who complies with the requirements of this chapter shall be entitled to receive and retain a grade A permit. Permits shall not be transferable with respect to persons or locations. Each person whose name appears on a grade A permit shall be at least 18 years of age. Each person requesting a grade A permit shall provide the State Regulatory Authority with the following information:

1. The name of the person or persons to whom the permit is to be issued;
2. If the person or persons are requesting a permit for a partnership, corporation, firm, trustee, or institution, the person or persons shall provide the articles of incorporation, partnership agreement, trust document, or other document identifying the names, titles, and mailing addresses of all responsible officials for the partnership, corporation, firm, trustee, or institution;
3. The address of the facility being permitted, including the street and number, city, state, and zip code. Addresses containing post office box designations shall not be permitted;
4. The trade name the permit holder will use if the permit holder will not be trading in the name to which the grade A permit is issued;
5. The name, mailing address, and telephone number for one responsible person designated by the grade A permit holder to receive all sample reports and official correspondence from the State Regulatory Authority;
6. If the permit application is for a grade A dairy farm, the name of the milk marketing organization or milk marketing cooperative to which the permit holder belongs or the buyer of its milk;
7. The names and phone numbers of responsible persons to contact at the grade A dairy farm or plant;
8. If the permit application is for a grade A dairy farm, the name, address, and telephone number of the owner of the dairy farm;
9. The printed name, signature, title, and date signed for each person whose name appears on the permit;
10. The printed name, signature, title, and date signed by the most responsible official for the partnership, corporation, firm, trustee, or institution if the permit is to be issued in the name of a partnership, corporation, company, firm, trustee, or institution; and
11. If the permit application is for a grade A plant permit, the plant code embossed or printed on packages of milk, milk product, condensed milk, condensed milk product, dry milk, or dry milk product packaged by the plant to identify the plant in lieu of printing the plant's name and address on the packages of milk, milk product, condensed

milk, condensed milk product, dry milk, or dry milk product, if one has been assigned.

C. Each person who holds a grade A permit and who requests a change in the name or names on an existing grade A permit shall provide the State Regulatory Authority with the following information:

1. A written statement requesting that the existing grade A permit be canceled that has been signed by each person whose name appears on the existing grade A permit; except that when a person whose name on an existing grade A permit is deceased, the request for cancellation shall be made in writing by the executor or administrator of the permit holder's estate. A copy of the qualification as executor or administrator shall accompany the request for cancellation along with a statement identifying the name of the deceased and the date of death. Each signature shall be made next to or above the person's printed name and shall be dated with the date on which the written statement was signed by the grade A permit holder;
2. If the existing grade A permit is held in the name of a partnership, corporation, company, firm, trustee, or institution, the written statement requesting the existing grade A permit be canceled shall be signed by a person who is authorized to sign on behalf of the partnership, corporation, company, firm, trustee, or institution. Each signature shall be made next to or above the person's printed name and official title for the partnership, corporation, company, firm, trustee, or institution and shall be dated with the date on which the written statement was signed by the person who is authorized to sign on behalf of the partnership, corporation, company, firm, trustee, or institution; and
3. All of the information required by 2VAC5-490-50 B for the State Regulatory Agency to issue a grade A permit.

D. No person may hold a grade A dairy farm permit if any part of his facilities, equipment, storage, or surroundings (except toilet rooms) requiring inspection is accessed through any room used for domestic purposes or part of any room used for domestic purposes. Toilet rooms used for domestic purposes may be approved as complying with the requirements of this chapter only if: (i) the toilet room is located within 300 feet of the milkroom and (ii) all labor utilized in the milking parlor, milking barn, and milkroom is provided by members of the permit holder's immediate family.

E. No person who holds a grade A permit shall use or allow anyone else to use his facilities and equipment for any purpose other than that for which the grade A permit was issued.

F. Each person who holds a grade A dairy farm permit shall display his permit in the milkroom on his dairy farm.

G. Each person who holds a grade A dairy plant permit shall display his grade A plant permit in his facilities where it is accessible for inspection.

H. No grade A permit holder may transfer any grade A permit to another person or another location.

I. No permit holder who has had his grade A dairy farm permit or dairy plant permit revoked by the State Regulatory Authority shall be eligible to hold a grade A dairy farm or dairy plant permit at any time after the permit holder's permit is revoked.

J. No grade A dairy farm may hold more than one grade A dairy farm permit. Multiple milking facilities or milk tanks on a grade A dairy farm shall not be issued separate grade A dairy farm permits for any reason.

2VAC5-490-31. Authority to cancel, suspend, revoke, or deny a permit.

A. The State Regulatory Authority may cancel, suspend, or revoke the grade A permit of any person, or may deny to any person a grade A permit if:

1. The grade A permit holder fails to engage daily in the business for which the grade A permit is issued;
2. The grade A permit holder does not daily produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth, or bring, send, or receive into the Commonwealth milk, milk product, condensed milk product, or dry milk product;
3. The grade A permit holder fails to provide at no cost to the State Regulatory Authority samples of milk, milk product, condensed milk product, and dry milk product in the person's possession for testing by the State Regulatory Authority;
4. The grade A permit holder fails to provide on a daily basis milk, milk product, condensed milk product, or dry milk product in the person's possession for sampling and testing by the State Regulatory Authority;
5. The grade A permit holder fails to comply with any requirement of this chapter, or of §§ 3.2-5200 through 3.2-5211 or 3.2-5218 through 3.2-5233 of the Code of Virginia;
6. A public health hazard exists that affects the grade A permit holder's milk, milk product, condensed milk product, or dry milk product;
7. The grade A permit holder or any agent of the grade A permit holder has obstructed or interfered with the State Regulatory Authority in the performance of its duties;
8. The person supplies false or misleading information to the State Regulatory Authority: (i) in the person's application for a grade A permit; (ii) concerning the identity of the person who will control the facility that is the subject of the grade A permit; (iii) concerning the amount of milk, milk product, condensed milk product, or dry milk product ~~which that~~ the person produces, provides,

manufactures, sells, offers for sale, or stores in the Commonwealth, or brings, sends, or receives into the Commonwealth and the distribution of the person's milk, milk product, condensed milk product, or dry milk product; (iv) concerning any investigation conducted by the State Regulatory Authority; or (v) concerning the location of any part of the person's operation that is subject to a grade A permit;

9. The grade A permit holder engages in fraudulent activity regarding: (i) the amount of milk, milk product, condensed milk product, or dry milk product the person offers to sell or sells; or (ii) the collection of samples of the person's milk, milk product, condensed milk product, or dry milk product used to determine compliance with any provision of this chapter or as a basis for payment for milk, milk product, condensed milk product, or dry milk product;

10. Three of the most recent five bacteria counts, somatic cell counts, or cooling temperature determinations conducted on the grade A permit holder's raw milk exceed the standards specified in this chapter;

11. Three of the most recent five bacteria counts, coliform determinations, or cooling temperature determinations conducted on the grade A permit holder's milk, milk product, condensed milk product, or dry milk product exceed the standards specified in this chapter;

~~12. Two of the most recent cryoscope tests on the grade A permit holder's milk violate the standard specified in this chapter and the most recent violative sample occurred within two years of the next most recent violative sample;~~

~~13. 12.~~ The most recent aflatoxin or drug residue test on the grade A permit holder's milk, milk product, condensed milk product, or dry milk product violates the standards specified in this chapter;

~~14. 13.~~ The most recent phosphatase test on the grade A permit holder's milk, milk product, condensed milk product, or dry milk product violates the standard specified in this chapter;

~~15. 14.~~ The most recent chemical residue test or pesticide residue test on the grade A permit holder's milk, milk product, condensed milk product, or dry milk product exceeds the actionable level, tolerance level, or safe level for any chemical residue or pesticide residue specified in: 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589. In the event that no actionable level, tolerance level, or safe level for a chemical residue or pesticides residue has been established in: 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589, the tolerance level shall be deemed to be zero;

~~16. 15.~~ The grade A permit holder fails to correct any: (i) violation of this chapter documented as a result of an inspection or (ii) deficiency or nonconformity documented

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as a result of a HACCP audit that the State Regulatory Authority has cited in a written notice of intent to suspend the person's grade A permit, as a violation of this chapter;

~~17.~~ 16. The grade A permit holder's raw milk for pasteurization is warmer than 50°F two hours after the completion of the first milking or the grade A permit holder's raw milk for pasteurization is warmer than 50°F during or after any subsequent milking;

~~18.~~ 17. The grade A permit holder's equipment is covered or partially covered by an accumulation of milk solids, milk fat, or other residue so that the milk, milk product, condensed milk product, or dry milk product is adulterated;

~~19.~~ 18. The grade A permit holder sells or offers for sale milk, milk products, condensed milk product, or dry milk product ~~which that~~ violate any requirement of this chapter;

~~20.~~ 19. The grade A permit holder's permit is suspended three times within a 12-month period;

~~21.~~ 20. The authority in another state responsible for issuing grade A permits has denied, suspended, or revoked the permit of the person in that state for any act or omission that would violate this chapter or the statutes under which this chapter was adopted, had the act or omission occurred in the Commonwealth; or

~~22.~~ 21. The Virginia Department of Agriculture and Consumer Services has previously revoked the person's grade A permit.

B. The State Regulatory Authority may summarily suspend a grade A permit for violation of any of the following subdivisions of subsection A of this section: 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18, ~~or~~ 19.

C. The State Regulatory Authority may suspend from sale any condensed milk, condensed milk product, dry milk, dry milk product, milk, or milk product in violation of the requirements of this chapter processed by any grade A dairy plant permit holder in lieu of suspending the grade A dairy plant permit holder's permit.

D. If the State Regulatory Authority suspends a permit holder's permit more than three times within any 12-month period, the permit holder's permit shall not be reinstated for a period of three days on the fourth suspension within any 12-month period and six days on the fifth suspension within any 12-month period with three days being added to the required suspension period for each additional suspension thereafter within any 12-month period.

E. If the State Regulatory Authority issues two written notices of intent to suspend a person's permit for failure to correct the same deficiency within any 12-month period, the State Regulatory Authority may issue and enforce a written notice of intent to summarily suspend the person's permit at any time within six months after the date the written notice of intent to summarily suspend is issued, to summarily suspend the person's permit if the same violation exist on any

inspection during the six-month period specified in the written notice of intent to summarily suspend.

2VAC5-490-33. Written warning and suspension notices for violations of quality standards; required procedures.

A. Whenever two of the last four consecutive cooling temperature checks, bacteria counts, or somatic cell counts taken on separate days for a grade A dairy farm permit holder exceed the standard established for grade A raw milk, the State Regulatory Agency shall send a written warning notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The warning notice shall inform the permit holder or his representative: (i) concerning which quality standards the permit holder has violated; (ii) that another sample will be collected within 21 days to determine compliance with the requirements; and (iii) that ~~his~~ the permit holder's grade A dairy farm permit will be suspended whenever three out of the last five consecutive cooling temperature checks, bacteria counts, or somatic cell counts exceed the standards. The warning notice shall be in effect so long as two out of the last four consecutive samples exceed the standard for grade A raw milk. An additional sample shall be collected to determine compliance with the standards for grade A raw milk within 21 days after sending the warning notice, but not before the lapse of three days.

~~B. Whenever the last cryoscope test result for a grade A dairy farm permit holder exceeds the standard established for grade A raw milk for the first time in the past two years, the State Regulatory Agency shall send a written warning notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The warning notice shall inform the permit holder or his representative: (i) concerning which quality standards the permit holder has violated; (ii) that another sample will be collected in the near future to determine compliance with the requirements; and (iii) that his grade A dairy farm permit will be suspended whenever two cryoscope test results on separate samples exceed the standard within the past two years. The warning notice shall be in effect so long as any sample exceeds the cryoscope standard for grade A raw milk within the past two years. Additional samples shall be collected in the future to determine compliance with the standards for grade A raw milk, but not before the lapse of three days.~~

~~C.~~ B. Whenever two of the last four consecutive cooling temperature checks or bacteria counts taken on separate days from a grade A permit holder's dairy plant exceed the standard established for commingled grade A raw milk for pasteurization, ultra-pasteurization, or aseptically processed and packaged milk or milk product, the State Regulatory Agency shall send a written warning notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The warning notice shall inform the permit holder or his representative: (i) concerning which quality standards the

permit holder has violated; (ii) that another sample will be collected within 21 days to determine compliance with the requirements of this chapter; and (iii) that the permit holder's grade A permit will be suspended whenever three out of the last five consecutive cooling temperature checks or bacteria counts exceed the quality standards. The warning notice shall be in effect so long as two out of the last four consecutive samples exceed the standard for grade A commingled raw milk for pasteurization, ultra-pasteurization, or aseptically processed and packaged milk or milk product. An additional sample shall be collected to determine compliance with the standards for grade A raw milk within 21 days after sending the warning notice, but not before the lapse of three days.

~~D.~~ C. Whenever two of the last four consecutive cooling temperature checks, bacteria counts, or coliform counts taken on separate days from a grade A permit holder's dairy plant exceed the standard established for grade A pasteurized or ultra-pasteurized milk or milk products in retail containers, the State Regulatory Agency shall send a written warning notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The warning notice shall inform the permit holder or his representative: (i) concerning which quality standards the permit holder has violated for each grade A pasteurized or ultra-pasteurized milk or milk product in retail containers; (ii) that another sample will be collected within 21 days to determine compliance with the requirements of this chapter; and (iii) that the permit holder's grade A pasteurized or ultra-pasteurized milk or milk product in retail containers will be suspended from sale whenever three out of the last five consecutive cooling temperature checks, bacteria counts, or coliform counts exceed the quality standards. The warning notice shall be in effect so long as two out of the last four consecutive samples exceed the standard for grade A pasteurized or ultra-pasteurized milk or milk products in retail containers. An additional sample shall be collected to determine compliance with the standards for grade A raw milk within 21 days after sending the warning notice, but not before the lapse of three days.

~~E.~~ D. Whenever two of the last four consecutive cooling temperature checks or bacteria counts taken on separate days from a grade A permit holder's dairy plant exceed the standard established for grade A bulk shipped heat-treated milk products, the State Regulatory Agency shall send a written warning notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The warning notice shall inform the permit holder or his representative: (i) concerning which quality standards the permit holder has violated for each grade A bulk shipped heat-treated milk product; (ii) that another sample will be collected within 21 days to determine compliance with the requirements of this chapter; and (iii) that the permit holder's grade A permit will be suspended whenever three out of the last five consecutive cooling temperature checks or bacteria counts exceed the quality

standards. The warning notice shall be in effect so long as two out of the last four consecutive samples exceed the standard for grade A bulk shipped heat-treated milk products. An additional sample shall be collected to determine compliance with the standards for grade A raw milk within 21 days after sending the warning notice, but not before the lapse of three days.

~~F.~~ E. Whenever three out of the last five consecutive cooling temperature checks, bacteria counts, or somatic cell counts taken on separate days for a grade A dairy farm permit holder exceed the standard established for grade A raw milk, the State Regulatory Agency shall send a written suspension notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The suspension notice shall inform the grade A dairy farm permit holder: (i) why ~~his~~ the permit holder's grade A permit is being suspended; (ii) that he will be contacted by the State Regulatory Authority to establish a date on which the suspension of his permit will be effective; and (iii) that his grade A permit will not be reinstated until laboratory analysis determine that his raw milk is in compliance with the quality standards.

~~G.~~ Whenever two cryoscope test results taken on separate days for a grade A dairy farm permit holder exceed the standard established for grade A raw milk within the past two years, the State Regulatory Agency shall send a written suspension notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The suspension notice shall inform the grade A dairy farm permit holder: (i) why his grade A permit is being suspended; (ii) that he will be contacted by the State Regulatory Authority to establish a date on which the suspension of his permit will be effective; and (iii) that his grade A permit will not be reinstated until laboratory analysis determine that his raw milk is in compliance with the quality standards.

~~H.~~ F. Whenever three out of the last five consecutive cooling temperature checks or bacteria counts taken on separate days from a grade A permit holder's dairy plant exceed the standard established for commingled grade A raw milk for pasteurization, ultra-pasteurization, or aseptically processed milk or milk products, the State Regulatory Authority shall send a written suspension notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The suspension notice shall inform the grade A dairy plant permit holder that: (i) the permit holder's grade A dairy plant permit is suspended and (ii) should the grade A dairy plant permit holder desire to have his grade A dairy plant permit reinstated, he must make his request in writing to the State Regulatory Authority detailing the actions he has taken and will take to avoid violating the standard he exceeded for commingled grade A raw milk in the future, establishing a date and time by which these actions will be fully implemented and stating the reasons why his request should be granted.

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I. G. Whenever three out of the last five consecutive cooling temperature checks, bacteria counts, or coliform counts taken on separate days from a grade A permit holder's dairy plant exceed the standard established for grade A pasteurized or ultra-pasteurized milk or milk products in retail containers, the State Regulatory Authority shall send a written suspension notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The suspension notice shall inform the grade A dairy plant permit holder: (i) that the pasteurized or ultra-pasteurized milk and dairy products in violation of the quality standard are suspended from sale; (ii) why the pasteurized or ultra-pasteurized milk and dairy products are suspended from sale; (iii) that the permit holder must contact the State Regulatory Authority when corrections have been made to bring ~~their~~ his pasteurized or ultra-pasteurized milk and milk products into compliance before any action will be taken to reinstate sales of his suspended pasteurized or ultra-pasteurized milk and milk products; and (iv) that his pasteurized or ultra-pasteurized milk and milk products will not be reinstated for sale until laboratory analysis determine that the pasteurized or ultra-pasteurized milk and milk products are in compliance with the quality standards.

J. H. Whenever three out of the last five consecutive cooling temperature checks or bacteria counts taken on separate days from a grade A permit holder's dairy plant exceed the standard established for grade A bulk shipped heat-treated milk products, the State Regulatory Authority shall send a written suspension notice to the permit holder or to the person identified by the permit holder to receive sample reports and official correspondence. The suspension notice shall inform the grade A dairy plant permit holder that: (i) the permit holder's grade A dairy plant permit is suspended and (ii) should the grade A dairy plant permit holder desire to have his grade A dairy plant permit reinstated, he must make his request in writing to the State Regulatory Authority detailing the actions he has taken and will take to avoid violating the standard he exceeded for grade A bulk shipped heat-treated milk products in the future, establishing a date and time by which these actions will be fully implemented and stating the reasons why his request should be granted.

2VAC5-490-34. Inspection of dairy farms, milk plants, condensing plants, and drying plants; HACCP audits of dairy plants.

A. No person who operates a dairy farm, milk plant, receiving station, transfer station, milk tank truck cleaning facility, condensing plant, or drying plant within the Commonwealth may hold a grade A permit until his dairy farm, milk plant, receiving station, transfer station, milk tank truck cleaning facility, condensing plant, or drying plant has been inspected and approved by the State Regulatory Authority.

B. After permitting, each person's dairy farm, milk plant, receiving station, transfer station, milk tank truck cleaning

facility, condensing plant, or drying plant within the Commonwealth shall be inspected ~~as often as~~ at the minimum frequency as outlined in Section 5 of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision," or at a greater frequency as deemed necessary by the State Regulatory Authority ~~deems is necessary~~.

C. After permitting, each person's milk plant, receiving station, transfer station, milk tank truck cleaning facility, condensing plant, or drying plant within the Commonwealth participating in the voluntary HACCP program shall be HACCP audited ~~as often as~~ at the minimum frequency as outlined in Section 5 of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision," or at a greater frequency as deemed necessary by the State Regulatory Authority ~~deems is necessary~~.

2VAC5-490-35. The examination of milk and milk products.

A. The State Regulatory Authority shall collect during any consecutive six months at least four samples of raw milk, collected in at least four separate months, except when three months show a month containing two sampling dates separated by at least 20 days for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging, from each dairy farm that holds a grade A permit.

B. After receipt of the milk by the milk plant and prior to pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging the State Regulatory Authority shall collect during any consecutive six months at least four samples of raw milk, collected in at least four separate months, except when three months show a month containing two sampling dates separated by at least 20 days for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging, from each milk plant located within the Commonwealth that holds a grade A permit.

C. The State Regulatory Authority shall collect during any consecutive six-month period at least four samples of each heat-treated, pasteurized, ultra-pasteurized, ~~and aseptically processed~~ milk product, flavored milk, flavored reduced fat milk or low-fat milk, flavored nonfat milk, each fat level of reduced fat or low-fat milk, and milk products collected in at least four separate months, except when three months show a month containing two sampling dates separated by at least 20 days, from each milk plant located in the Commonwealth and holding a grade A permit.

D. All pasteurized and ultra-pasteurized milk and milk products required sampling and testing shall be conducted only when there are test methods available that are validated by FDA and accepted by NCIMS. Milk and milk products that do not have validated and accepted methods are not required to be tested. Aseptically processed and packaged milk and milk products and retort processed after packaged

milk and milk products shall be exempt from the sampling and testing requirements of subsection C of this section.

~~D.~~ E. The State Regulatory Authority shall, except when the production is not on a yearly basis, during each month collect from each milk condensing plant, milk drying plant, whey condensing plant, or whey drying plant holding a grade A permit at least one sample of raw milk for pasteurization, after receipt of the milk by the plant and before pasteurization, and at least one sample of each grade A condensed milk product, grade A dry milk product, grade A condensed whey, and grade A dry whey manufactured. If the production of grade A dry milk products or grade A dry whey is not on a yearly basis, the State Regulatory Authority shall collect at least five samples within a continuous production period.

~~E.~~ F. The State Regulatory Authority may collect samples of milk and milk products as it deems necessary from retail establishments selling milk or milk products to determine compliance with 2VAC5-490-20, 2VAC5-490-40, 2VAC5-490-50, and 2VAC5-490-80. Each person who operates the retail establishment shall furnish the State Regulatory Authority, upon the request of the State Regulatory Authority, with the names of all distributors from whom the person has obtained milk or milk products.

~~F.~~ G. The State Regulatory Authority shall provide the remaining portion of the original raw milk sample from each grade A dairy farm ~~which that~~ has been screened positive for animal drug residues by a milk plant, receiving station, or transfer station to the grade A dairy ~~farms'~~ farm's milk marketing organization upon request.

~~G.~~ H. Each grade A permit holder operating a milk plant within the Commonwealth shall provide to the State Regulatory Authority laboratory determinations of the quantity of vitamin A and vitamin D present in each of the milk plant's milk and milk products to which vitamin A or vitamin D has been added. Each grade A permit holder who operates a milk plant shall provide these laboratory determinations at least annually from a laboratory certified to determine the amount of vitamin A and vitamin D in milk and milk products under the requirements established in "Evaluation of Milk Laboratories," ~~2009~~ 2011 revision, available from the Food and Drug Administration, Center for Food Safety and Applied Nutrition, Office of Field Programs, Division of HACCP, Laboratory Quality Assurance Branch, HFH-450, 6502 South Archer Road, Summit-Argo, Illinois 60501, USA. Each grade A permit holder who operates a milk plant shall pay for the cost of the laboratory determinations.

2VAC5-490-36. Drug residue monitoring, farm surveillance and follow up.

A. Each grade A permit holder operating a milk plant, receiving station, or transfer station shall:

1. Prior to processing any raw milk from bulk tanks on farms, test for residues of beta lactam drugs all raw milk

that the milk plant, receiving station, or transfer station receives for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging;

2. Test each shipment of bulk tank raw milk or a raw milk supply that has not been transported in bulk milk pickup tankers received for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging by screening tests methods ~~which that~~ have been Association of Official Analytical Chemists (AOAC) reviewed and Food and Drug Administration (FDA) accepted. In lieu of any test specified in this subdivision a grade A permit holder may use AOAC first-action and AOAC final-action tests methods. Nothing in this subdivision shall be deemed to require the testing of individual raw milk samples prior to processing collected from each grade A dairy farm included in any shipment of bulk tank raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging;

3. Implement a random-sampling program when the Commissioner of the Food and Drug Administration determines that a potential problem exists with animal drug residues or other contaminants in the milk supply. Each grade A permit holder operating a milk plant, receiving station, or transfer station shall analyze the samples for the contaminant by a method determined by FDA to be effective in determining compliance with actionable levels or established tolerances. Each grade A permit holder operating a milk plant, receiving station, or transfer station shall continue the random-sampling program until such time that the Commissioner of the Food and Drug Administration is reasonably assured that the problem has been corrected. The sampling program shall represent and include during any consecutive six months, at least four samples collected in at least four separate months, except when three months show a month containing two sampling dates separated by at least 20 days;

4. Retain each sample found to be positive for drug residues for a period of 120 hours after the sample test result is positive for drug residues for the use of the State Regulatory Authority unless directed otherwise by a representative of the State Regulatory Authority;

5. Abstain from selling or offering for sale any pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, milk product, or condensed and dry milk product processed from raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging before results of drug screening tests are available and which raw milk later tests positive for drug residues. All of the grade A permit holder's milk commingled with any raw milk ~~which that~~ tests positive for drug residues shall be deemed adulterated. Any grade A

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permit holder operating a milk plant, receiving station, or transfer station shall report to the State Regulatory Authority instances of adulteration immediately;

6. Record the results of tests on samples of raw milk and retain such records for a period of six months; report records of all results of tests on samples of raw milk to the State Regulatory Authority by the fifteenth day of each month for the preceding month; and maintain and make available to the State Regulatory Authority for inspection and review at the permitted facility records of results of tests on samples of raw milk. Each record of results of tests on samples of raw milk required by this subdivision shall include:

- a. The analyst's signature, date, time, and place where the test was performed;
- b. The registration identification of each pickup tanker of bulk raw milk or raw milk sampled;
- c. The test method used;
- d. The Interstate Milk Shipper Bulk Tank Unit identification number of each grade A milk supply included on each pickup tanker of bulk raw milk tested; and

e. A statement as to whether the test results were positive or negative. If the results were positive, the grade A permit holder shall also record:

- (1) The identity of each producer contributing to the load from which the positive sample of raw milk was taken;
- (2) The name of the person notified at the State Regulatory Authority of the positive test results;
- (3) The date and time of day the person at the State Regulatory Authority was notified of the positive test results; and
- (4) The method of notification of the State Regulatory Authority;

7. Immediately notify the State Regulatory Authority and the milk marketing cooperative or broker of any shipment of bulk tank raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging milk and milk products when the shipment of bulk tank raw milk is found to be positive for drug residues. Nothing in this subdivision shall be deemed to include individual raw milk samples collected from each grade A dairy farm included in any shipment of bulk tank raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging milk and milk products;

8. Test each producer sample of raw milk to determine the farm of origin represented by any sample of raw milk ~~which~~ that tests positive for drug residues and immediately report to the State Regulatory Authority the result of each producer sample representing the raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing

and packaging, or retort processed after packaging milk and milk products found to be positive for drug residues;

9. Provide by facsimile machine or other electronic means to the Virginia Department of Agriculture and Consumer Services copies of load manifests, producer weight tickets, laboratory worksheets where the results of laboratory tests are originally recorded, and records from electronic readers documenting the results for samples tested for all positive loads; and

10. Immediately discontinue receiving shipments of raw milk from the grade A permit holder whose milk tests positive for drug residues, until subsequent tests are no longer positive for drug residues.

B. Each grade A dairy farm permit holder's milk marketing cooperative or milk marketing agent shall be responsible for the collection and testing of follow-up milk samples for animal drug residues required for permit reinstatement and resumption of milk shipment from the dairy farm each time the grade A dairy farm permit holder's milk test positive for animal drug residues.

C. Each grade A dairy farm permit holder's milk marketing cooperative or milk marketing agent shall comply with the following when following up on a producer's dairy farm after a positive animal drug residue:

1. Only ~~person's~~ persons who hold valid permits to weigh, sample, and collect milk issued by the Virginia Department of Agriculture and Consumer Services shall collect and deliver follow-up milk samples to laboratories for official testing for the purpose of permit reinstatement and the resumption of milk shipments from the dairy farm;

2. Reports of laboratory testing shall be provided from officially designated laboratories for each milk sample tested for animal drug residues and shall include the following information:

- a. The name of the grade A dairy farm permit holder;
- b. The patron number of the grade A dairy farm permit holder;
- c. The date, time, and temperature of the milk sample when collected;
- d. The name of the person who collected the milk sample;
- e. The name of the test method used to test the milk sample; and
- f. The test result for the milk sample; and

3. Only confirmation test methods approved under M-I-96-10 (~~Revision #7~~) (Revision #8) dated ~~January 4, 2010~~ March 22, 2012, and titled "Drug Residue Test Methods for Confirmation of Presumptive Positive Results and Initial Producer Trace Back" may be used for follow-up milk sample testing.

2VAC5-490-37. Laboratory certification.

A. Each grade A permit holder operating a dairy plant that receives any milk that could require load confirmation or producer trace-back as a result of a positive animal drug residue on a load of milk delivered at the plant shall provide to the Virginia Department of Agriculture and Consumer Services results of animal drug residue tests from an officially designated laboratory. Each officially designated laboratory shall maintain a listing in the IMS List – Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers as an approved milk laboratory certified to test load and producer samples. All laboratory results from officially designated laboratories shall be reported to the Virginia Department of Agriculture and Consumer Services within six hours of the initial presumptive positive result at the plant.

B. Each officially designated laboratory shall comply with the requirements contained in the "Evaluation of Milk Laboratories, 2009 2011 revision" for certification and listing in the "IMS List – Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers."

2VAC5-490-39. Records of milk purchased or sold; list of sources.

Each grade A permit holder who operates a milk plant, receiving station, or transfer station, and any person who distributes milk or milk products shall furnish the State Regulatory Authority upon request:

1. A true statement of the quantities of milk and milk products of each grade purchased or sold by the milk plant, receiving station, transfer station, or distributor of milk or milk product; and
2. A list of all sources from which the milk plant, receiving station, transfer station, or distributor of milk or milk product, received milk or milk products.

2VAC5-490-39.3. Commingling of milk from different species prohibited.

No person may produce, provide, manufacture ~~in~~, sell, offer for sale, or store in the Commonwealth, or; bring, send, or receive into the Commonwealth, any milk, milk product, or condensed and dry milk product for use in the commercial preparation of grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products, any part of which is a combination of the milk from any two or more species of mammal.

Part V
Labeling

2VAC5-490-40. Labeling.

No person may produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth or; bring into, send into, or receive into the Commonwealth any milk, milk product, or condensed and dry milk product for use in the commercial preparation of grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after

packaged milk or milk products ~~which~~ that are not labeled in compliance with the following:

1. Each grade A permit holder's bottles, containers, and packages enclosing any milk or milk products shall be labeled in accordance with the requirements of the Federal Food, Drug, and Cosmetic Act, as amended; the Nutrition Labeling and Education Act (NLEA) of 1990, and regulations developed thereunder; and the Food Allergen Labeling and Consumer Protection Act of 2004;
2. The grade A permit holder shall label or mark all bottles, containers, and packages enclosing any milk or milk products with:
 - a. The name of a defined milk product, if there is a definition, and if there is no definition, a name that is not false or misleading;
 - b. The word "reconstituted" or "recombined" if the milk product is made by reconstitution or recombination;
 - c. The term "grade A" located on the exterior of the package on the principal display panel, the secondary or informational panel, or the cap or cover;
 - d. The identity of the plant where the grade A permit holder's milk or milk product is pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged by specifying:
 - (1) The street address, city, state, and zip code of the plant; or
 - (2) The code assigned the plant under the National Uniform Coding System for Packaging Identification of Milk and Milk Product Processing Plants;
 - e. In the case of concentrated milk or concentrated milk products the volume or proportion of water to be added for recombining;
 - f. The name of the milk product that the concentrated milk product will produce, which name shall be preceded by the term "concentrated." In the case of flavored milk or flavored reconstituted milk, the grade A permit holder shall substitute the name of the principal flavor for the word "flavored";
 - g. In the case of aseptically processed and packaged milk and milk products or retort processed after packaged milk and milk products, the words "keep refrigerated after opening";
 - h. In the case of aseptically processed and packaged milk or milk products, the term "UHT" ultra-high-temperature;
 - i. The term "ultra-pasteurized" if the milk or milk product has been ultra-pasteurized;
 - j. The term "goat" preceding the name of the milk or milk product when the milk or milk product is goat milk or is made from goat milk;

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k. The term "sheep" preceding the name of the milk or milk product when the milk or milk product is sheep milk or is made from sheep milk;

l. The term "water buffalo" preceding the name of the milk or milk product when the milk or milk product is water buffalo milk or is made from water buffalo milk;

m. As in the case of cow's milk, goat's milk, sheep's milk, and water buffalo's milk, the common or usual name of the mammal from which the milk was obtained shall precede the name of the milk, milk product, condensed milk, condensed milk product, dry milk₂ or dry milk product;

n. The information appearing on the label of any bottle, container, or package of milk or milk product shall contain no marks, pictures, graphics, endorsements, or words ~~which that~~ are misleading;

o. The "pull date" ~~which~~ shall not interfere with the legibility of other labeling required for the milk or milk product and shall be expressed by: the first three letters in the name of the month, followed by or preceded by the numeral or numerals constituting the calendar date after which the product shall not be sold or expressed numerically by the number of the month followed by the number of the day. For example, June 1 shall be expressed "JUN 1," "1 JUN," "06 01," or "06-01";

p. The grade A permit holder who operates a milk plant and offers for sale milk or milk product within the Commonwealth shall file and certify with the State Regulatory Authority the maximum number of days after manufacturing or processing the grade A permit holder's milk or milk products ~~which that~~ will be used to determine the "pull date." The grade A permit holder shall establish a "pull date" that under normal storage the milk or milk product meets for a minimum of 96 hours after the "pull date," standards set by this chapter;

q. No person may sell or offer for sale any packaged grade A pasteurized milk, grade A pasteurized milk product, or milk product after the date of the "pull date" on the package;

r. No person may sell or offer for sale any grade A pasteurized milk, grade A pasteurized milk product, or milk product in a package that does not bear the "pull date";

s. Nothing in this chapter shall apply to containers of grade A pasteurized milk, grade A milk products, or milk products ~~which that~~ are not to be sold in the Commonwealth; and

t. In the case of condensed or dry milk products₁, the label shall also contain (i) the identity of the State Regulatory Authority issuing the processing plant's permit; (ii) the identity of the distributor if the condensed or dry milk products are distributed by a party other than the processing plant, the name and address of the distributor

shall also be shown by a statement such as "distributed by"; (iii) the code or lot number identifying the contents with a specific date, run, or batch of the product; and (iv) a statement of the quantity of the contents of the container.

Part VI

Standards for Milk and Milk Products

2VAC5-490-50. Quality standards for milk and milk products.

A. No person may produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth, or₇ bring, send, or receive into the Commonwealth, any milk, milk product, condensed milk product₂, or dry milk product for use in the commercial preparation of grade A pasteurized, ultra-pasteurized, or aseptically processed milk or milk products ~~which that~~ do not comply with the following:

1. Grade A raw milk for pasteurization or ultra-pasteurization ~~or~~₃ aseptic processing and packaging, or retort processed after packaging and all grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products shall be produced, processed, manufactured and pasteurized, ~~or~~ ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged to conform with the following chemical, physical, bacteriological, somatic cell, ~~eryoscope~~, and temperature standards, and with the requirements of this chapter;

2. No process or manipulation other than (i) pasteurization; (ii) ultra-pasteurization; (iii) aseptic processing; ~~or (iv) and packaging;~~ (iv) retort processed after packaging; or (v) processing methods integral with pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging; and refrigeration may be applied to milk or milk products for the purpose of removing or deactivating microorganisms provided that filtration, bactofugation, or filtration and bactofugation may be performed in the plant in which the milk or milk product is pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged. Nothing in this chapter is deemed to prohibit any grade A permit holder who operates a milk plant from preparing bulk shipments of cream, skim milk, reduced fat or lowfat milk labeled as "heat treated"; if the raw milk, raw cream, skim milk, reduced fat or lowfat milk is heated, one time, to a temperature warmer than 125°F but cooler than 161°F for separation purposes, In the case of heat treated cream, the cream may be further heated to less than 166°F in a continuing heating process and immediately cooled to 45°F or less when necessary for enzyme deactivation (such as lipase reduction) for a functional reason;

3. Grade A raw milk and milk products for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging,

or retort processed after packaging shall comply with the following standards:

- a. The temperature of the raw milk shall be cooled to 40°F or cooler, but not frozen, within two hours after milking and the temperature after the first or any subsequent milking shall not be warmer than 50°F;
- b. The bacteria count of the raw milk shall not exceed 100,000 bacteria per milliliter prior to commingling with any other milk; and the bacteria count of the raw milk that is commingled shall not exceed 300,000 bacteria per milliliter prior to pasteurization;
- c. Raw milk shall freeze at or below -0.530° Hortvet;
- d. Raw milk shall have no positive results of tests for drug residues by detection methods reported to the State Regulatory Authority by official laboratories, officially designated laboratories, milk plants, receiving stations, or transfer stations;
- e. The somatic cell count of raw cow's milk, raw water buffalo's milk, or raw sheep's milk shall not exceed 750,000 somatic cells per milliliter. The somatic cell count of raw goat's milk shall not exceed 1,500,000 somatic cells per milliliter;
- f. Raw milk shall not exceed the actionable level, tolerance level, or safe level for any chemical residue or pesticide residue specified in: 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589. In the event that no actionable level, tolerance level, or safe level for a chemical residue or pesticides residue has been established in 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589, the tolerance level shall be deemed to be zero; and
- g. Raw milk shall not contain aflatoxin residues equal to or greater than 0.50 parts per billion as determined by the Charm II aflatoxin test or other equivalent method.

4. Grade A pasteurized or ultra-pasteurized, milk and milk products shall comply with the following standards:

- a. The temperature of milk products shall be cooled to 45°F or cooler (but not frozen) and maintained at that temperature;
- b. The bacteria count for any milk or milk products (except acidified or cultured products) milk or milk products, eggnog, cottage cheese, and other milk or milk products as identified in FDA M-a-98) shall not exceed 20,000 bacteria per milliliter;
- c. Except for commingled milk shipped in a transport tank the coliform count for any milk or milk products shall not exceed 10 coliform organisms per milliliter. Commingled milk shipped in a transport tank shall not exceed 100 coliform organisms per milliliter;

d. The phenol value of test samples of pasteurized finished product shall be no greater than the maximum specified for the particular product as determined and specified by: (i) any phosphatase test method prescribed in the Official Methods of Analysis, ~~18th~~ 19th Edition, ~~2005~~ 2012, published by the Association of Official Analytical Chemists; (ii) the Fluorometer test method; (iii) the Charm ALP test method; or (iv) other equivalent method as determined by the Virginia Department of Agriculture and Consumer Services. A phenol value greater than the maximum specified for the particular product shall mean that the product was not properly pasteurized. A phenol value less than the maximum specified for the particular product shall not be deemed to mean that the product was properly pasteurized, unless there is evidence of proper pasteurization equipment in conformance with this chapter and records to determine an adequate pasteurization process has been completed for each separate batch or lot of milk, milk product, condensed milk, condensed milk product, dry milk, or dry milk product;

e. Milk or milk products shall have no positive results of tests for drug residues by detection methods reported to the State Regulatory Authority by official laboratories, officially designated laboratories, milk plants, receiving stations, or transfer stations;

f. Milk or milk products shall not exceed the actionable level, tolerance level, or safe level for any chemical residue or pesticide residue specified in: 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589. In the event that no actionable level, tolerance level, or safe level for a chemical residue or pesticides residue has been established in 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589, the tolerance level shall be deemed to be zero; and

g. Milk or milk products shall not contain aflatoxin residues equal to or greater than 0.50 parts per billion as determined by the Charm II aflatoxin test or other equivalent method.

5. Grade A pasteurized concentrated (condensed) milk or milk product shall comply with the following standards:

a. The temperature of milk products shall be cooled to 45°F or cooler (but not frozen) and maintained thereat unless drying is commenced immediately after condensing;

b. Except for commingled milk shipped in a transport tank, the coliform count for any milk or milk product shall not exceed 10 coliform organisms per gram. Commingled milk shipped in a transport tank shall not exceed 100 coliform organisms per gram.

6. Grade A aseptically processed and packaged milk and milk products shall comply with the following standards:

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- a. Aseptically processed and packaged milk and milk products shall be commercially sterile;
 - b. Aseptically processed and packaged milk and milk products shall have no positive results of tests for drug residues by detection methods reported to the State Regulatory Authority by official laboratories, officially designated laboratories, milk plants, receiving stations, or transfer stations;
 - c. Aseptically processed and packaged milk and milk products shall not exceed the actionable level, tolerance level, or safe level for any chemical residue or pesticide residue specified in 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589. In the event that no actionable level, tolerance level, or safe level for a chemical residue or pesticides residue has been established in 40 CFR Part 180 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 570, 573, 589, the tolerance level shall be deemed to be zero; and
 - d. Aseptically processed and packaged milk and milk products milk shall not contain aflatoxin residues equal to or greater than 0.05 parts per billion.
- ~~6.~~ 7. Grade A nonfat dry milk and dry milk or milk products shall comply with the following standards:
- a. ~~The butterfat content shall not be greater than 1 1/4%;~~
 - b. ~~The moisture content shall not be greater than 4.0%;~~
 - c. ~~The titratable acidity shall not exceed 0.15%;~~
 - d. ~~The solubility index shall not exceed 1 1/4 milliliters;~~
 - e. a. The bacteria count shall not exceed ~~30,000~~ 10,000 bacteria per gram; and
 - f. b. The coliform count shall not exceed 10 coliform organisms per gram; and
 - g. ~~The amount of scorched particles shall not exceed 15 particles per gram.~~
7. 8. Grade A whey for condensing or drying shall be maintained at a temperature of 45°F (7°C) or less, or 135°F (57°C) or greater; provided that, acid-type whey with a titratable acidity of 0.40% or above or a pH of 4.6 or below shall be exempt for the requirements of this subdivision;
8. 9. Grade A pasteurized condensed whey and whey products shall be cooled to 50°F (10°C) or less during crystallization and within 72 hours of condensing. The coliform count of grade A pasteurized condensed whey and whey products shall not exceed 10 coliform organisms per gram; and
9. 10. The coliform count of grade A dry whey, grade A dry whey products, grade A dry buttermilk, and grade A dry buttermilk products shall not exceed 10 coliform organisms per gram.
- B. Sanitation requirements for grade A raw milk.

1. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or aseptic processing~~ and packaging, or retort processed after packaging shall comply with:

a. The following administrative procedures contained in the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision": Section 4.—~~Labeling~~; Section 7.—~~Standards for Grade "A" Raw Milk for Pasteurization, Ultra-Pasteurization or Aseptic Processing~~, Items 1r, 2r, 3r, 4r, 5r, 6r, 7r, 8r, 9r, ~~10r(1), 10r(2), 11r, 12r, 13r(1), 13r(2), 13r(4), 13r(5)~~ 13r, 14r, 15r, 16r, 17r, 18r(2), 18r(3), 19r; Section 8.—~~Animal Health~~; Section 10.—~~Transferring; Delivery Containers; Cooling~~; and Section 13.—~~Personnel Health~~;

b. The following appendices contained in the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision": Appendices A, B, C, D, F, G, H, N, Q, and R; and

c. Item 1r. Abnormal milk. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or aseptic processing~~ and packaging, or retort processed after packaging shall:

(1) Milk last or with separate equipment cows, sheep, goats, water buffalo, or other mammals ~~which that~~ show evidence of the secretion of abnormal milk in one or more quarters (based upon bacteriological, chemical, or physical examination) and discard the milk obtained from cows, sheep, goats, water buffalo, or other mammals ~~which that~~ show evidence of the secretion of abnormal milk in one or more quarters based upon bacteriological, chemical, or physical examination; and

(2) Milk last or with separate equipment cows, sheep, goats, water buffalo, or other mammals treated with, or ~~which that~~ have consumed, chemical, medicinal, or radioactive agents ~~which that~~ are capable of being secreted in the milk and ~~which that~~ may be deleterious to human health; and dispose of in a manner ~~which that~~ will not pollute the environment or any human food the milk obtained from cows, sheep, goats, water buffalo, or other mammals treated with, or ~~which that~~ have consumed, chemical, medicinal, or radioactive agents ~~which that~~ are capable of being secreted in the milk and ~~which that~~ may be deleterious to human health;

d. Item 2r. Milking barn, stable, or parlor- i construction. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or aseptic processing~~ and packaging, or retort processed after packaging shall:

(1) Provide on the person's dairy farm a milking barn, stable, or parlor in which the milking herd shall be housed during milking time;

(2) Provide on the grade A permit holder's dairy farm a milking barn, stable, or parlor, ~~which~~; milking barn, stable, or parlor shall:

- (a) Have floors constructed of concrete or equally impervious material;
- (b) Have walls and ceiling ~~which~~ that are smooth, painted, or finished in an approved manner, and in good repair and have a ceiling which is dust tight;
- (c) Have separate stalls or pens for horses, calves, and bulls;
- (d) Have natural or artificial light, well distributed for day or night milking;
- (e) Have sufficient air space and air circulation to prevent condensation and excessive odors;
- (f) Have dust-tight covered boxes or bins, or separate storage facilities for ground, chopped, or concentrated feed; and
- (g) Not be overcrowded; and
- (3) Provide and use only an "automatic milking installation" that complies with the requirements of Appendix Q of the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision" if the person milks any cows, goats, sheep, water buffalo, or other mammals (except humans) using robots or other automated means in the absence of any human;

e. Item 3r. Milking barn, stable, or parlor- cleanliness. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

- (1) Keep the interior of the milking barn, stable, or parlor clean;
- (2) Keep the floors, walls, ceilings, windows, pipelines, and equipment in the milking barn, stable, or parlor free of filth or litter and clean;
- (3) Keep swine and fowl out of the milking barn, stable, and parlor; ~~and~~
- (4) Keep surcingles, belly straps, milk stools, and antikickers clean and stored above the floor; and
- (5) Store feed in a manner that will not increase the dust content of the air or interfere with the cleaning of the floor;

f. Item 4r. Cow yard, sheep yard, goat yard, water buffalo yard, or other milking mammal yard. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

- (1) Provide and maintain the cow yard, sheep yard, goat yard, water buffalo yard or other milking mammal yard, to be graded and drained, and to have no standing pools of water or accumulations of organic wastes;
- (2) In the cow loafing, goat loafing, sheep loafing, water buffalo loafing, or other milking mammal loafing, cattle-housing, sheep-housing, goat-housing, water buffalo-

housing, or other milking mammal-housing areas remove cow droppings, sheep droppings, goat droppings, water buffalo droppings, and other milking mammal droppings and remove soiled bedding or add clean bedding at sufficiently frequent intervals to prevent the soiling of the cow's, sheep's, goat's, water buffalo's, or other milking mammal's udder and flanks;

- (3) Assure that waste feed does not accumulate in the goat yard, cow yard, sheep yard, water buffalo yard, other milking mammal yard, cow loafing, sheep loafing, goat loafing, water buffalo loafing, other milking mammal loafing, cattle-housing, sheep-housing, goat-housing, water buffalo-housing, or other milking mammal-housing area;
- (4) Maintain any manure packs so as to be properly drained and so as to provide a reasonably firm footing; and
- (5) Keep swine and fowl out of the cow yard, sheep yard, goat yard, water buffalo yard, other milking mammal yard, cow loafing, sheep loafing, goat loafing, water buffalo loafing, other milking mammal loafing, cattle-housing, sheep-housing, goat-housing, water buffalo-housing, or other milking mammal-housing area;

g. Item 5r. Milkhouse or room- construction and facilities. Each who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

- (1) Provide a milkhouse or milkroom of sufficient size in which the cooling, handling, and storing of milk and the washing, sanitizing, and storing of milk containers and utensils shall be conducted except as provided under subdivision 1 n of this subsection;
- (2) Provide a milkhouse with a smooth floor, constructed of concrete or equally impervious material graded to drain, and maintained in good repair;
- (3) Dispose of in a sanitary manner all liquid waste generated in the milkhouse;
- (4) Provide one or more floor drains in the milkhouse, which floor drains shall be accessible, and if connected to a sanitary sewer system trapped;
- (5) Provide in the milkhouse walls and ceilings constructed of a smooth material, in good repair, well painted, or finished in an equally suitable manner;
- (6) Provide adequate natural or artificial light and ventilation in the milkhouse;
- (7) Use the milkhouse for no other purpose than milkhouse operations;
- (8) Provide no direct opening from the milkhouse into any barn, stable, or into any room used for domestic purposes, other than a direct opening between the milkhouse and milking barn, stable, or parlor provided

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with a tight-fitting, self-closing, solid door, which door has been hinged to be single or double acting. Screened vents in the wall between the milkhouse and a breezeway, which separates the milkhouse from the milking parlor, are permitted, provided animals are not housed within the milking facility;

(9) Provide in the milkhouse water under pressure which has been piped into the milkhouse;

(10) Provide in the milkhouse a two-compartment wash vat and adequate hot water heating facilities;

(11) Except as provided for under subdivision 1 g (12) of this subsection provide a suitable shelter for the receipt of milk when the grade A permit holder uses a transportation tank for the cooling or storage of milk on the grade A permit holder's dairy farm, which shelter adjacent to, but not a part of, the milkroom; and with the requirements of the milkroom shall comply with respect to construction, light, drainage, insect and rodent control, and general maintenance. In addition to providing a suitable shelter as required by this subsection, the grade A permit holder shall:

(a) Install an accurate, accessible temperature-recording device in the milk line used to fill the transportation tank downstream from an effective cooling device capable of cooling the milk to 40°F or less before the milk enters the transportation tank. Electronic records that comply with the applicable provisions as referred to in Sections IV and V of Appendix H of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision," with or without hard copy, may be used in place of temperature-recording records;

(b) Install an indicating thermometer as close as possible to the temperature-recording device in the milk line used to fill the transportation tank to be used for verification of recording temperatures, which indicating thermometer shall:

(i) Have a temperature span of not less than 50°F including normal storage temperatures plus or minus 5°F, with an extension of the scale on either side permitted and graduated in not more than 2°F divisions;

(ii) Have temperature scale divisions spaced not less than 0.0625 inches apart between 35°F and 55°F;

(iii) Have an accuracy within plus or minus 2°F throughout the scale range; and

(iv) Have the stem fitting installed in a pressure-tight seat or other sanitary fitting with no threads exposed;

(c) Provide an effective means to agitate the transport tank or an approved in-line sampling device in order to collect a representative milk sample;

(12) If the State Regulatory Authority determines conditions exist whereby the milk transport tank may be adequately protected and sampled without contamination,

a shelter need not be provided if the grade A permit holder:

(a) Provides a means to make all milk hose connections to the transport tank accessible from within the milkhouse;

(b) Provides a means to completely protect the milk hose connection to the transport tank from the outside environment. With approval of the State Regulatory Authority, the direct loading of milk from the milkhouse to the milk tank truck may be conducted through a properly designed hose port that adequately protects the milkhouse opening or by stubbing the milk transfer and associated CIP cleaned lines outside the milkhouse wall in accordance with Item 5r, Administrative Procedure #15, of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision";

(c) Ensures ~~he utilizes~~ only milk transport tanks the manholes of which have been sealed after cleaning and sanitizing are utilized;

(d) Ensures ~~he utilizes~~ only milk transport tanks that have been washed and sanitized at permitted dairy plants or a permitted milk tank truck cleaning facilities acceptable to the State Regulatory Agency are utilized;

(e) Installs an accurate, accessible temperature-recording device in the milk line used to fill the transportation tank downstream from an effective cooling device capable of cooling the milk to 40°F or less before the milk enters the transportation tank. Electronic records that comply with the applicable provisions as referred to in Sections IV and V of Appendix H of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision," with or without hard copy, may be used in place of temperature-recording records;

(f) Installs an indicating thermometer as close as possible to the temperature-recording device in the milk line used to fill the transportation tank to be used for verification of recording temperatures, which indicating thermometer shall:

(i) Have a temperature span of not less than 50°F including normal storage temperatures plus or minus 5°F, with an extension of the scale on either side permitted and graduated in not more ~~than~~ than 2°F divisions;

(ii) Have temperature scale divisions spaced not less ~~than~~ than 0.0625 inches apart between 35°F and 55°F;

(iii) Have an accuracy within plus or minus 2°F throughout the scale range; and

(iv) Have the stem fitting installed in a pressure-tight seat or other sanitary fitting with no threads exposed;

(g) Provides an effective means to agitate the transport tank or an approved in-line sampling device in order to collect a representative milk sample; and

(h) Provides a self-draining concrete or equally impervious surface on which the transport tank can be parked during filling and storage;

h. Item 6r. Milkhouse or milkroom-; cleanliness. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Keep clean the floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, nonproduct contact surfaces of milk containers, utensils, equipment, and other milkroom equipment in the milkroom;

(2) Place in the milkroom only those articles directly related to milkroom activities; and

(3) Keep the milkroom free of trash, animals, and fowl;

i. Item 7r. Toilets. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Provide on the person's grade A dairy farm one or more toilets, which shall be conveniently located and properly constructed, and operated, and maintained in a sanitary manner;

(2) Prevent the access of flies to the waste contained in or from the toilet;

(3) Prevent the waste contained in or from the toilet from polluting the soil surface or contaminating any water supply; and

(4) Assure that there is no direct opening from the toilet into any milkroom;

j. Item 8r. Water supply. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Provide water for milkhouse and milking operations from a water supply properly located, protected, and operated. The water supply shall be easily accessible, adequate, ~~and~~ of a safe, sanitary quality, and meet the construction standards of Appendix D of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision";

~~(2) Assure that any well casing which is part of a water supply that provides water for any milkhouse or milking operation is not located closer to any source of contamination which may contaminate the water supply than is specified as follows:~~

~~(a) No grade A permit holder may locate a well casing closer than 10 feet to a pit;~~

~~(b) No grade A permit holder may locate a well casing closer than 10 feet to any sewer pipe, floor drain, or other pipe which may back up;~~

~~(c) No grade A permit holder may locate a well casing closer than 50 feet to any above ground gas, oil, petroleum, or chemical storage tank;~~

~~(d) No grade A permit holder may locate a well casing closer than 50 feet to any accumulated animal manure;~~

~~(e) No grade A permit holder may locate a well casing closer than 50 feet to any area to which livestock has access; or animal holding area, feedlot, or loafing area on dirt;~~

~~(f) No grade A permit holder may locate a well casing closer than 50 feet to any pit not drained to the surface of the ground. Nothing in this requirement shall apply to a residential basement;~~

~~(g) No grade A permit holder may locate a well casing closer than 100 feet to any pit privy. Existing well casings located on grade A dairy farms holding valid permits issued by the State Regulatory Authority on September 1, 1993, shall be exempt from the 100 foot distance requirement of this subdivision until the existing permit is canceled or revoked;~~

~~(h) No grade A permit holder may locate a well casing closer than 100 feet to any animal manure disposal area;~~

~~(i) No grade A permit holder may locate a well casing closer than 100 feet to any cess pool;~~

~~(j) No grade A permit holder may locate a well casing closer than 100 feet to any dry well;~~

~~(k) No grade A permit holder may locate a well casing closer than 100 feet to any structure which stores animal manure;~~

~~(l) No grade A permit holder may locate a well casing closer than 100 feet to any septic tank or drain field; and~~

~~(m) No grade A permit holder may locate a well casing closer than 100 feet to any underground or partially-buried gas, oil, petroleum, or chemical storage tank;~~

~~(3) Construct the water supply so that the well casing terminates at least two feet above the highest known flood plane for the location in which the water supply is located; and~~

~~(4) Construct the water supply so that no potable water supply pipe attached to the water supply is located closer than 10 feet measured horizontally to any sewer pipe, soil pipe, or drain;~~

~~(2) Construct the water supply so that no cross connections between a safe water supply and any unsafe or questionable water supply or other source of pollution exists; and~~

~~(3) Construct the water supply so that no submerged inlets exist through which a safe water supply may be contaminated;~~

k. Item 9r. Utensils and equipment-construction. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic

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processing and packaging, or retort processed after packaging shall:

(1) Provide multiuse containers, equipment, and utensils for use in the handling, storage, or transportation of any milk, which multiuse containers, equipment, and utensils, shall be made of smooth, nonabsorbent, corrosion-resistant, and nontoxic materials; constructed as to be easily cleaned; and maintained in good repair;

(2) Provide milk pails ~~which~~ that are constructed to be seamless and of the hooded type if the grade A permit holder does hand milking and stripping;

(3) Abstain from using multiple-use woven material for straining any milk;

(4) Use only single-service articles ~~which~~ that have been manufactured, packaged, transported, stored, and handled in a sanitary manner and that comply with the requirements of subdivision C 1 of this section;

(5) Abstain from reusing any article intended for single-service use; and

(6) Provide farm holding or cooling tanks, welded sanitary piping, and transportation tanks ~~which~~ that comply with the requirements of subdivisions C 1 l and C 1 m of this section on any grade A dairy farm;

l. Item 10r. Utensils and equipment; cleaning. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Clean after each use, or once every 24 hours in the case of continuous operations, the product-contact surfaces of all multiuse containers, multiuse equipment, and multiuse utensils used in the handling, storage, or transportation of any milk; ~~and~~

(2) Offer for sale or sell no milk ~~which~~ that has passed through any equipment; if the milk-contact surfaces of the equipment are no longer visible; or are covered or partially covered by an accumulation of milk solids, milk fat, cleaning compounds, or other soils. Any milk ~~which~~ that passes through equipment, the milk-contact surfaces of which are no longer visible, or are covered or partially covered by an accumulation of milk solids, milk fat, cleaning compounds, or other soils shall be deemed adulterated; and

(3) Construct a separate wash manifold for all CIP cleaned milk pipelines in all new or extensively remodeled facilities;

m. Item 11r. Utensils and equipment; sanitization. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall sanitize before each use the product-contact surfaces of all multiuse containers, equipment,

and utensils used in the handling, storage, or transportation of any milk;

n. Item 12r. Utensils and equipment; storage. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall store containers, utensils, and equipment used in the handling, storage, or transportation of any milk in a sanitizing solution or store the containers, utensils, and equipment used in the handling, storage, or transportation of any milk to assure complete drainage, and protected from contamination prior to use. Nothing in this requirement shall be deemed to prohibit a grade A permit holder from storing in a milking barn or milking parlor a milk pipeline, or the following pipeline milking equipment: milker claw, inflation, weigh jar, meter, milk hose, milk receiver, tubular cooler, plate cooler, or milk pump; if the milk pipeline or pipeline milking equipment specified in this subdivision is designed for mechanical cleaning; and designed, installed, and operated to protect the milk product and solution-contact surfaces from contamination at all times;

o. Item 13r. Milking; flanks, udders, and teats. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Milk all cows, sheep, goats, water buffalo, and other mammals in a milking barn, stable, or parlor;

(2) Trim the hair from the udder and tail of all milking cows, sheep, goats, water buffalo, and other mammals to facilitate cleaning of the udder and tail;

(3) Keep the flanks, udders, bellies, and tails of all milking cows, sheep, goats, water buffalo, and other mammals free of visible dirt;

(4) Keep the hair on the udders of all milking cows, sheep, goats, water buffalo, and other mammals to a length that the hair on the udder of any cow, sheep, goat, water buffalo, or other mammal cannot be incorporated with the teat in the inflation during milking;

(5) Abstain from milking any cow, sheep, goat, water buffalo, or other mammal whose udder or teats is not clean and dry;

(6) Treat with a sanitizing solution, just prior to milking, the teats of each milking cow, sheep, goat, water buffalo, and other mammal and dry the teats of each milking cow, sheep, goat, water buffalo, and other mammal before milking; and

(7) Milk all cows, sheep, goats, water buffalo, and other mammal with dry hands;

p. Item 14r. Protection from contamination. Each person who holds a grade A permit to produce raw milk for

pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

- (1) Locate and operate the milking and milk house operations, equipment, and facilities to prevent any contamination of the milk, equipment, containers, or utensils;
- (2) Transfer immediately from the milking barn, stable, or parlor to the milkhouse each pail or container of milk;
- (3) Strain, pour, transfer, or store any milk unless it is protected from contamination;
- (4) Handle all containers, utensils and equipment that have been sanitized in such a manner as to prevent contamination of any product-contact surfaces;
- (5) Transport from the grade A permit holder's dairy farm to a milk plant or receiving station all milk in cans, using vehicles ~~which that~~ are constructed and operated to protect the milk from sun, freezing, and contamination;
- (6) Keep clean the inside and outside of each vehicle used to transport from the grade A permit holder's dairy farm to a milk plant or receiving station any milk in cans; and
- (7) Transport no substance capable of contaminating the milk when transporting milk;

q. Item 15r. Drug and chemical control. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

- (1) Store all drugs and medicinals in such a manner that neither the drugs nor the medicinals can contaminate any milk or the milk product-contact surface of any equipment, containers, or utensils;
- (2) Abstain from using unapproved or improperly labeled medicinals or drugs to treat any dairy animals or store unapproved or improperly labeled medicinals or drugs in the milkhouse, milking barn, stable or parlor. Except for topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage form vitamins and mineral products, a drug or medicinal is properly labeled only if the drug or medicinal is labeled with the following:
 - (a) For over-the-counter medicinals or drugs, the name and address of the manufacturer or distributor, or for prescription and extra-label use medicinals or drugs, the name of the veterinary practitioner dispensing the product;
 - (b) Directions for use of the drug or medicinal and the prescribed holding time;
 - (c) Any cautionary statement for the drug or medicinal, if needed; and
 - (d) The active ingredient or ingredients in the drug or medicinal;

(3) Except for topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage form vitamins and mineral products, segregate all medicinals and drugs used for lactating dairy animals from any medicinals and drugs used for nonlactating dairy animals to include dairy calves, dairy heifers, and dairy bulls;

(4) Except for topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage form vitamins and mineral products, provide separate shelves in a cabinet, refrigerator, or other storage facility for the storage of all medicinals and drugs for treatment of nonlactating dairy animals, to include dairy calves, dairy heifers, and dairy bulls, separate from those medicinals or drugs used for lactating dairy animals; and

(5) Store topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage-form vitamins and mineral products in a manner that does not contaminate any milk or the milk-product surfaces of any containers or utensils;

r. Item 16r. Personnel; hand-washing facilities. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall provide hand-washing facilities that are convenient to the milkhouse, milking barn, stable, or parlor, and flush toilet and that include separate hot and cold running water; soap or detergent; and individual sanitary towels or other approved hand-drying devices. When individual sanitary towels are used, covered trash containers shall be provided;

s. Item 17r. Personnel; cleanliness. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Wash clean and dry with an individual sanitary towel or other approved hand drying device the person's hands immediately before milking, before performing any milkhouse function, and immediately after the interruption of milking or performing any milkhouse function; and

(2) Wear clean outer garments while milking or handling any milk, milk containers, utensils, or equipment. Bulk milk haulers shall wear clean outer garments while handling any milk, milk containers, utensils, or equipment;

t. Item 18r. Cooling. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Cool to 40°F or cooler (but not freeze); all raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic

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processing and packaging, or retort processed after packaging, within two hours after the grade A permit holder completes milking; and assure that the temperature of the grade A permit holder's raw milk is not warmer than 50°F after the first milking or any subsequent milking. Raw milk for pasteurization ~~which that~~ is warmer than a temperature of 50°F after the first milking or any subsequent milking shall be deemed a public health hazard and shall not be offered for sale or sold; ~~and~~

(2) Assure that circular recording charts are operated continuously and maintained in a properly functioning manner. Circular charts shall not overlap; ~~and~~

~~(2)~~ (3) Agitate all raw milk for pasteurization for not less than five minutes at least once every hour; assure that the milk in the farm's bulk milk cooling or holding tank covers the agitator paddle sufficiently to facilitate proper cooling and sampling after the completion of the first milking; and abstain from selling or offering for sale milk ~~which that~~ does not cover the agitator paddle sufficiently to facilitate proper cooling and sampling after the completion of the first milking;

u. Item 19r. Insect and rodent control. Each person who holds a grade A permit to produce raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging shall:

(1) Take effective measures to prevent the contamination of any milk, containers, equipment, and utensils by insects, rodents, and other animals, and by chemicals used to control insects, rodents, and other animals;

(2) Maintain the milkroom free of insects, rodents and other animals;

(3) Keep the areas surrounding the: milkhouse; milking barn; milking stable; milking parlor; cattle, sheep, water buffalo, other mammal, or goat housing; cattle, sheep, water buffalo, other mammal, or goat loafing area; water supply; or other facilities on the grade A permit holder's dairy farm neat, clean, and free of conditions ~~which that~~ might harbor or be conducive to the breeding of insects and rodents; and

(4) Store all feed in such a manner that the feed will not attract birds, rodents, or insects.

C. Sanitation requirements for grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products.

1. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products shall comply with:

a. The following administrative procedures contained in the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision": Section ~~7.2~~ Standards for Grade "A" Pasteurized, Ultra-pasteurized and Aseptically Processed

~~Milk and Milk Products~~, Items 1p, 2p, 3p, 4p, 5p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 13p, 14p, 15p, 16p, 17p, 18p, 19p, 20p, 21p, and 22p (provided in the case of milk plants or portions of milk plants that are IMS Listed to produce aseptically processed and packaged milk or milk products, the APPS or RPPS, respectively, as defined in the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision," shall be exempt from Items 7p, 10p, 11p, 12p, 13p, 15p, 16p, 17p, 18p, and 19p of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision" and shall comply with the applicable portions of 21 CFR Parts 108, 110, and 113); Section 13; and Section 14;

b. The following appendices contained in the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision": Appendices D, F, G, H, I, J, K, L, N, O ~~and~~ R, ~~and~~ S;

c. Item 1p. Floors; construction. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products shall:

(1) Except as specified in subdivision C 1 c (2) of this section, provide floors; for all rooms in which milk or milk products are processed, handled, packaged, or stored, or in which milk containers, equipment, or utensils are washed, constructed of concrete or other equally impervious and easily cleaned material and ~~which that~~ are smooth, properly sloped, provided with trapped drains, and kept in good repair;

(2) The floor in any cold-storage room used for storing milk and milk products need not be provided with floor drains if the floors are sloped to drain to one or more exits from the cold-storage room. The floor in any storage room used for storing dry ingredients or packaging materials need not be provided with drains, and the floor in any storage room used for storing dry ingredients or packaging materials may be constructed of tightly joined wood;

d. Item 2p. Walls and ceilings; construction. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products shall provide walls and ceilings of rooms in which milk or milk products are handled, processed, packaged, or stored, or in which milk containers, utensils, or equipment are washed, that have a smooth, washable, light-colored surface, and that are in good repair;

e. Item 3p. Doors and windows. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products shall provide:

(1) Effective means to prevent the access of ~~flies~~ insects and rodents to any part of a milk plant, receiving station, or transfer station; and

(2) Solid doors or glazed windows for all openings to the outside of any milk plant, receiving station, or transfer station and keep the doors and windows closed during dusty weather;

f. Item 4p. Lighting and ventilation. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall provide rooms in which any milk or milk products are handled, processed, packaged, or stored, or in which any milk containers, equipment, or utensils are washed, that are well lighted and well ventilated;

g. Item 5p. Separate rooms. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Provide separate rooms for: (i) pasteurizing, processing, cooling, reconstituting, condensing, drying, and packaging of milk, dry milk, and milk products; (ii) cleaning milk cans, containers, bottles, and cases, and dry milk or dry milk product containers; (iii) the fabrication of containers and closures for milk and milk products, except for aseptically processed and packaged milk and milk products, or retort processed after packaging milk and milk products in which the containers and closures are fabricated within the APPS or RPPS, respectively; (iv) cleaning and sanitizing facilities for bulk milk transport tanks if the grade A permit holder receives any milk or milk product in bulk milk transport tanks; and (v) receiving cans of milk and milk products separate from clauses (i), (ii) and (iii) of this subdivision, unless all of the grade A permit holder's milk or milk products are received in bulk milk transport tanks;

(2) Not use any room with a direct opening into any stable or room used for domestic purposes to handle, process, or store any milk or milk products or; to wash or store any milk containers, utensils, or equipment;

(3) Use rooms of sufficient size so as not to be crowded to handle, process, or store any milk or milk products or to wash or store any milk containers, utensils, or equipment; and

(4) Provide designated areas or rooms for the receiving, handling, and storage of returned packaged milk and milk products if the permit holder receives any returned packaged milk or milk products;

h. Item 6p. Toilet-sewage disposal facilities. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall provide each milk plant with toilet facilities conforming with the regulations of the Commonwealth and the following requirements: no toilet room may open directly into any room in which milk or

milk products are processed; the toilet room shall be completely enclosed and shall have tight-fitting, self closing doors; the dressing room, toilet room, and fixtures shall be kept in a clean condition, in good repair, and shall be well ventilated and well lighted; and sewage and other liquid wastes from the toilet room shall be disposed of in a sanitary manner;

i. Item 7p. Water supply. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Provide water for each milk plant from a supply ~~which~~ that is properly located, protected, and operated; and

(2) Provide water from a supply ~~which~~ that is easily accessible for inspection by the State Regulatory Authority, adequate, and of a safe, sanitary quality;

j. Item 8p. Hand-washing facilities. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Provide hand-washing facilities, including separate hot and cold running water, mix valve, soap, and individual sanitary towels or other approved hand-drying devices, convenient in any area where milk or milk products are handled, processed, or stored, and any area where containers, utensils, or equipment, are washed or stored; and

(2) Keep the hand-washing facilities clean and in good repair;

k. Item 9p. Milk plant cleanliness. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Keep clean, neat, and free of any evidence of animals, insects, or rodents; all rooms in which milk or milk products are handled, processed, or stored or in which containers, utensils, or equipment are washed or stored; and

(2) Permit only equipment directly related to processing operations or to the handling of containers, utensils, and equipment, in pasteurizing, processing, cooling, condensing, drying, packaging, or bulk milk, or milk product storage rooms;

l. Item 10p. Sanitary piping. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

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(1) Use only sanitary piping, fittings, and connections consisting of smooth, impervious corrosion-resistant, nontoxic, easily cleanable materials that are exposed to any milk or milk products, or from which liquids may drip, drain, or be drawn into any milk or milk products;

(2) Keep all piping in good repair;

(3) Except as specified in subdivision 1 l of this subsection, use only sanitary piping to transfer any pasteurized or ultra-pasteurized milk or milk products from one piece of equipment to another piece of equipment; and

(4) Transport cottage cheese, cheese dressings, or cheese ingredients by methods ~~which~~ that protect the product from contamination;

m. Item 11p. Construction and repair of containers and equipment. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Use only multiuse containers and equipment, that may come in contact with any milk or milk products constructed of smooth, impervious, corrosion-resistant, and nontoxic materials; constructed for ease of cleaning; and kept in good repair;

(2) Use only single-service containers, closures, gaskets, and other articles, that may come in contact with any milk or milk products, that are nontoxic and have been manufactured, packaged, transported, and handled in a sanitary manner;

(3) Abstain from using more than once any articles intended for single-service use; and

(4) Use only single-service containers, closures, caps, gaskets, and similar articles manufactured, packed, transported, and handled in a manner ~~which~~ that complies with the requirements of Appendix J, "Standards for the Fabrication of Single-Service Containers and Closures for Milk and Milk Products"; contained in the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision";

n. Item 12p. Cleaning and sanitizing of containers and equipment. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Effectively clean and sanitize before each use the product-contact surfaces of all multiuse containers and equipment, utensils, and equipment used in the transportation, processing, handling, and storage of any milk or milk products;

(2) Use only ~~multi-use~~ multiuse containers for packaging pasteurized milk and milk products that comply with the following: (i) the residual bacteria count on ~~multi-use~~ multiuse containers may not exceed one per milliliter of

capacity when the rinse test is used, or the residual bacteria count on ~~multi-use~~ multiuse containers shall not exceed 50 colonies per eight square inches (one per square centimeter) of product-contact surface, when the swab test is used; in three-out-of-four samples taken at random on a given day; and (ii) all ~~multi-use~~ multiuse containers shall be free of coliform organisms; and

(3) Use only single-service containers for packaging pasteurized milk and milk products that comply with the following: (i) the residual bacteria count of single-service containers shall not exceed 50 per container, when the rinse test is used, except that in containers less than 100 milliliters, the count shall not exceed 10, or the residual bacteria count of single-service containers shall not exceed 50 colonies per eight square inches (one per square centimeter) of product contact surface, when the swab test is used; in three-out-of-four samples taken at random on a given day; and (ii) all single-service containers shall be free of coliform organisms;

o. Item 13p. Storage of cleaned containers and equipment. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products, shall after cleaning any multiuse milk or milk product containers, utensils, or equipment, transport or store the multiuse milk or milk product containers, utensils, or equipment in a manner that assures complete drainage and in a manner that protects the multiuse milk or milk product containers, utensils, or equipment from contamination before use;

p. Item 14p. Storage of single-service containers, utensils, and materials. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk, or milk products shall:

(1) Purchase all single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk or milk products, in sanitary tubes, wrappings, or cartons;

(2) Store in a clean dry place until used, single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk or milk products;

(3) Store single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk or milk products in sanitary tubes, wrappings, or cartons; and

(4) Handle single-service caps, cap stock, parchment paper, containers, gaskets, and other single-service articles for use in contact with milk or milk products in a sanitary manner;

q. Item 15p. Protection from contamination. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall:

- (1) Locate the person's equipment and facilities and conduct milk plant operations to prevent any contamination of any milk or milk products, ingredients, equipment, containers, or utensils;
- (2) Discard all milk, milk products, or ingredients ~~which~~ that have been spilled, overflowed, or leaked;
- (3) Perform the processing and handling of products other than grade A milk and milk products in the person's milk plant to preclude the contamination of any grade A milk or milk products;
- (4) Store, handle, or use any poisonous or toxic material to preclude the contamination of any milk, milk product, or ingredient, and the milk product contact surfaces of all equipment, containers, or utensils; and
- (5) Clean, prior to use, all ~~multi-use~~ multiuse cases used to encase packaged milk or milk product containers;

r. Item 16p. Pasteurization and ultra-pasteurization. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall:

- (1) Perform pasteurization or ultra-pasteurization as defined in 2VAC5-490-10, and Item 16p of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision"; and
- (2) Perform aseptic processing and packaging and retort processed after packaging in compliance ~~accordance~~ with the ~~provisions applicable requirements~~ of 21 CFR ~~Part 113, 21 CFR Part Parts~~ 108, ~~and the Administrative Procedures of Item 16p, 16p(C), 16p(D), and 16p(E) of the "Grade "A" Pasteurized Milk Ordinance, 2009 Revision" 110, and 113;~~

s. Item 17p. Cooling of milk. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall:

- (1) Maintain all raw milk and milk products at a temperature of 45°F or cooler, but not frozen, until processed;
- (2) Maintain all whey and whey products for condensing, drying, or condensing and drying at a temperature of 45°F (7°C) or cooler; or 135°F (57°C) or greater until processed, except that acid-type whey with a titratable acidity of 0.40% or above, or a pH of 4.6 or below, is exempted from these temperature requirements;
- (3) Completely empty and clean the tanks and vessels used to blend and hold all milk or milk product flavoring

slurries that contain milk and milk products after each four hours of operation or less if such tanks are not intended to be injected within a HTST pasteurization system as part of a liquid ingredient injection system as outlined in Appendix H of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision" or unless the slurry is stored at a temperature of 45°F (7°C) or cooler, or at a temperature of 150°F (66°C) or greater and maintained thereat;

~~(3)~~ (4) Immediately cool, except for the following milk or milk products, all pasteurized or ultra-pasteurized milk or milk products prior to filling or packaging in approved cooling equipment to a temperature of 45°F or cooler, but not frozen, unless drying is commenced immediately after condensing:

- (a) Those milk or milk products to be cultured;
- (b) Cultured sour cream at all milkfat levels with a pH of 4.70 or below;
- (c) Acidified sour cream at all milkfat levels with a pH of 4.60 or below;
- (d) All yogurt products at all milkfat levels with an initial pH of 4.80 or below at filling;
- (e) Cultured buttermilk at all milkfat levels with a pH of 4.60 or below; ~~and~~
- (f) All condensed whey and whey products shall be cooled during the crystallization process to 50°F (10°C) or less within 72 hours of condensing, including the filling and emptying time, unless filling occurs above 135°F (57°C), in which case, the 72 hour time period begins when cooling started; and
- (g) All cultured cottage cheese at all milkfat levels with a pH of 5.2 or below shall be cooled as per specifications of Item 17p (6a-6e) of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision";

~~(4)~~ (5) Store, transport, and deliver at a temperature of 45°F or cooler, but not frozen, all pasteurized or ultra-pasteurized milk or milk products with the following exceptions:

- (a) Cultured sour cream at all milkfat levels with a pH of 4.70 or below shall be cooled to 45°F (7°C) or cooler within 168 hours of filling;
- (b) Acidified sour cream at all milkfat levels with a pH of 4.60 or below shall be cooled to 45°F (7°C) or cooler within 168 hours of filling;
- (c) All yogurt products at all milkfat levels with an initial pH of 4.80 or below at filling and with a subsequent pH of 4.60 or below within 24 hours after filling shall be cooled to 45°F (7°C) or cooler within 96 hours after filling; ~~and~~
- (d) Cultured buttermilk at all milkfat levels with a pH of 4.60 or below shall be cooled to 45°F (7°C) or cooler within 24 hours after filling; and

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(e) Cultured cottage cheese at all milkfat levels with a pH of 5.2 or below shall be stored as per specifications of item 17p (5a-5d) of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision";

~~(5)~~ (6) Store all pasteurized milk and milk products to be condensed, dried, or condensed and dried at a temperature of 50°F (10°C) or cooler until further processed;

~~(6)~~ (7) Equip with an accurate indicating thermometer each of the rooms or tanks in which any milk, milk products, whey, or whey products are stored; ~~and~~

~~(7)~~ (8) Maintain the temperature on delivery vehicles of milk and milk products at 45°F (7°C) or cooler. Aseptically processed and packaged milk and milk products and retort processed after packaged milk and milk products to be packaged in hermetically sealed containers shall be exempt from the cooling requirements of this item; and

(9) Provide ready access at the plant to cleaning records and product storage temperature records stored electronically for review by the State Regulatory Authority. Electronic records of cleaning shall comply with the applicable provisions of Appendix H, Sections IV and V of the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision";

t. Item 18p. Bottling and packaging. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall:

(1) Bottle or package all milk or milk products at the place of pasteurization in the grade A permit holder's milk plant and in approved mechanical equipment;

(2) Package and store in a sanitary manner all dry milk products in new containers, which protect the contents from contamination; and

(3) Transport and store in a sanitary manner all condensed and dry milk products in sealed containers from one milk plant to another milk plant for further processing or packaging;

u. Item 19p. Capping. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall:

(1) Cap or close all milk or milk product containers in a sanitary manner by use of approved mechanical capping or closing and sealing equipment; and

(2) Use only caps or closures for all milk or milk products, ~~which that~~ protect the pouring lip of a milk or milk product container to at least its largest diameter and, use with respect to fluid product containers, only caps or closures that the removal of the cap or closure cannot be made without detection;

v. Item 20p. Personnel; cleanliness. No person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall:

(1) Permit any person in a milk plant to commence any plant function before the person has thoroughly washed the person's hands to remove soil and contamination or to permit any person in a milk plant to continue any plant function if the person's hands are not clean;

(2) Permit any person in a milk plant to resume work after the person has visited the toilet room before the person has thoroughly washed the person's hands;

(3) Permit any person in a milk plant to engage in the processing, pasteurization, handling, storage, or transportation of any milk, milk products, containers, equipment or utensils, unless the person is wearing clean outer garments;

(4) Permit any person in a milk plant, to engage in the processing of any milk or milk products unless the person wears adequate hair covering; or

(5) Permit any person in a milk plant, to engage in the processing of any milk or milk products if the person is using tobacco;

w. Item 21p. Vehicles. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall use vehicles to transport pasteurized and ultra-pasteurized milk and milk products that are constructed and operated so that the milk or milk products are maintained at a temperature of 45°F or cooler, but not frozen, and protected from sunlight, from freezing, and from contamination;

x. Item 22p. Surroundings. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk; or milk products shall keep neat, clean, and free from conditions ~~which that~~ which might attract or harbor flies, other insects, rodents, or ~~which other pests that~~ otherwise constitute a nuisance, the area surrounding any milk plant;

y. Each grade A permit holder's receiving station shall comply with subdivisions C 1 a through q of this section, inclusive, and subdivisions C 1 r, s, v, and x of this section, except that the partitioning requirement of subdivision C 1 g of this section shall not be deemed to apply;

z. Each grade A permit holder's transfer station shall comply with subdivisions C 1 c, f, h through n, p, q, s, v, and x of this section; and as climatic and operating conditions require, the provisions of subdivisions C 1 d

and e of this section; except that each person shall provide overhead protection for a transfer station; and

a1. Each grade A permit holder's facilities for the cleaning and sanitizing of bulk tanks ~~which that~~ transport milk and milk products shall comply with subdivisions C 1 a, f, h through n, p, q, v, and x of this section; and as climatic and operating conditions require, the provisions of subdivisions C 1 d and e of this section except that each grade A permit holder shall provide overhead protection for facilities for the cleaning and sanitizing of bulk tanks which transport milk and milk products in the grade A permit holder's milk plant, receiving station, or transfer station.

D. Minimum facilities requirements for milk processing plant. Each person who holds a grade A permit to produce grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaging milk or milk products shall:

1. Provide a separate receiving room meeting the requirements of subdivision C 1 y of this section from any other area of the plant for the receipt of milk or milk products in bulk if the plant receives any milk or milk products in bulk;
2. Provide cleaning and sanitizing facilities for milk tank trucks as part of the plant's receiving room facilities if the plant receives any milk or milk products in bulk;
3. Provide a separate receiving room from any other area of the plant for the receipt of milk or milk product in cans or other containers if the plant receives any milk or milk product in cans or other containers;
4. Provide a separate room from any other area of the plant for the cleaning of milk cans or containers, bottles, milk cases, and dry milk or milk product containers if the plant receives any milk in cans or containers or washes any bottles, milk cases, or dry milk or milk product containers;
5. Provide a separate room for the fabrication of containers and closures for milk and milk products if the plant fabricates any containers or closures;
6. Provide a separate room for the packaging of dry milk or milk products if the plant packages any dry milk or milk product; and
7. Provide separate rooms from any other area of the plant for each of the following operations performed on any milk, milk product, or condensed and dry milk product: (i) pasteurization; (ii) processing; (iii) cooling; (iv) reconstitution; (v) condensing; (vi) drying; and (vii) packaging, if the operation is performed in the plant.

Part VII
Animal Health

2VAC5-490-60. Animal health.

A. No person may produce, provide, manufacture sell, offer for sale, store in the Commonwealth, ~~or~~ bring, send, or

receive into the Commonwealth any milk, milk product, or condensed and dry milk product for use in the commercial preparation of grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk product unless the person complies with the following requirements:

1. Milk for pasteurization ~~or~~, ultra-pasteurization ~~or~~, aseptic processing and packaging, or retort processed after packaging from cows, goats, sheep, water buffalo, and other mammals shall (i) be from a herd or flock that complies with the ~~"Uniform Methods and Rules; Bovine Tuberculosis Eradication-effective"; Uniform Methods and Rules, effective January 1, 2005,"~~ 9 CFR Part 77, and each herd or flock shall be located in a Modified Accredited Advanced Tuberculosis Area or an Area Accredited Free of Bovine Tuberculosis as defined in ~~"Uniform Methods and Rules; Bovine Tuberculosis Eradication-effective"; Uniform Methods and Rules, effective January 1, 2005,"~~ and certified; (ii) be accredited as a tuberculosis-free herd by the U.S. Department of Agriculture ~~or shall;~~ (iii) have passed an annual tuberculosis test; or (iv) be located in an area that has established a tuberculosis testing protocol for livestock that assures tuberculosis protection and surveillance of the dairy industry within the area and that is approved by FDA, USDA, and the State Regulatory Authority;

2. Milk for pasteurization ~~or~~, ultra-pasteurization ~~or~~, aseptic processing and packaging, or retort processed after packaging from bison and cattle shall be from a herd that complies with ~~"Uniform Methods and Rules; Brucellosis Eradication-effective"; Uniform Methods and Rules, effective October 1, 2003,"~~ 9 CFR Part 78, and the following:

a. Each herd shall be located in a Certified Brucellosis-Free Area ~~or a Modified Certified Brucellosis Area~~ as defined in ~~"Uniform Methods and Rules; Brucellosis Eradication-effective; Uniform Methods and Rules, effective October 1, 2003,"~~ and or shall be a certified brucellosis-free herd by the United States Department of Agriculture ~~and enrolled in a testing program for the Certified Brucellosis Free Area or the Modified Certified Brucellosis Area;~~

b. Each herd shall meet the requirements for an individually certified herd as defined in ~~"Uniform Methods and Rules; Brucellosis Eradication-effective; Uniform Methods and Rules, effective October 1, 2003";~~

c. Each herd shall participate in a milk ring testing program meeting the requirements specified in ~~"Uniform Methods and Rules; Brucellosis Eradication-effective; Uniform Methods and Rules, effective October 1, 2003,"~~ in an area that conducts a milk ring testing program at least two times per year at approximately equal intervals, and any herd with a positive milk ring

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test result shall be blood tested within 30 days from the date of the positive milk ring test; or

d. Each cow, bull, heifer, calf, and bison in the herd shall be individually tested by an "official" blood test as defined in ~~"Uniform Methods and Rules; Brucellosis~~ "Brucellosis Eradication" for the detection of brucellosis annually;

3. Goat's milk, sheep's milk, water buffalo milk, and milk from other mammals (except bison and cattle) for pasteurization ~~or~~ ultra-pasteurization ~~or~~ aseptic processing and packaging, or retort processed after packaging shall be from a herd or flock ~~which that~~:

a. Has an annual whole-herd brucellosis test as recommended by the State Veterinarian or USDA Area Veterinarian in Charge;

b. Has passed an initial whole herd or flock brucellosis test, followed by the testing of all replacement animals or any animals entering the milking group or sold as dairy animals on a continuing basis;

c. Has passed an annual random blood-testing program sufficient to provide a confidence level of 99% with a P value of 0.05. Any herd or flock with one or more confirmed positive animals shall go to 100% testing until the whole herd tests show no positive animals are found. The following table provides the random sampling size needed to achieve a 99% confidence with a P value of 0.05:

Herd/Flock Size	Sampling Size	Herd/Flock Size	Sampling Size
20	20	500	82
50	41	600	83
100	59	700	84
150	67	800	85
200	72	1000	86
250	75	1400	87
300	77	1800	88
350	79	4000	89
400	80	10000	89
450	81	100000	90

; or

d. Has passed a USDA-approved bulk milk brucellosis test certified for use in each species of mammal and at the USDA-recommended frequency for testing with an implementation date based on the availability of the test; and

4. For diseases of cows, sheep, goats, water buffalo, or other mammals ~~which that~~ might affect human health,

other than brucellosis and tuberculosis, the State Regulatory Authority may require physical, chemical, or bacteriological examinations or other tests as may be deemed necessary by a licensed veterinarian or a veterinarian in the employ of the State Regulatory Authority to diagnose the disease. Each grade A permit holder shall dispose of any diseased animal disclosed by testing in a manner ~~which that~~ prevents the spread of the disease to other animals or humans.

B. Each grade A dairy farm permit holder shall test his whole herd of milking mammals for brucellosis using a test method acceptable to a licensed veterinarian or a veterinarian in the employ of the State Regulatory Authority within 30 days after each positive screening test result on a milk ring test.

Part VIII

Milk and Milk Products ~~which that~~ May Be Sold

2VAC5-490-70. Milk or milk products ~~which that~~ may be sold.

A. Except as specified in subsection B of this section from and after September 10, 1993, a person may sell, offer for sale, or expose for sale in the Commonwealth only grade A pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products to the final consumer, or to restaurants, soda fountains, and grocery stores or similar establishments, provided only grade A milk and milk products shall be sold to milk plants for use in the commercial preparation of grade A milk and milk products.

B. No person may sell, offer for sale, or expose for sale in the Commonwealth any pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products ~~which that~~ have not been graded or the grade of which is not known to the final consumer, or to restaurants, soda fountains, and grocery stores or similar establishments unless the Commissioner of Agriculture and Consumer Services makes a finding in writing (which the Commissioner of Agriculture and Consumer Services may renew for terms not to exceed 90 days per term, without limitation) that the supply of grade A raw milk for pasteurization, ultra-pasteurization, ~~or~~ aseptic processing and packaging, or retort processed after packaging is not adequate to meet the nutritional needs of any person who secures milk in Virginia; or the supply of pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk product at retail is not available for purchase by any person who secures milk in Virginia.

C. No person may sell, offer for sale or; expose for sale ~~in;~~ or possess in the Commonwealth any pasteurized, ultra-pasteurized, ~~or~~ aseptically processed and packaged, or retort processed after packaged milk or milk products under the provision of subsection B of this section unless the milk or milk product is labeled "ungraded."

2VAC5-490-73. Mandatory pasteurization for all milk, milk products, condensed milk, condensed milk products, aseptically processed and packaged milk and milk products, retort processed after packaged milk and milk products, dry milk, and dry milk products in final package form intended for direct human consumption.

No person shall sell or hold with intent to sell or offer to sell in intrastate commerce any milk, milk product, condensed milk, condensed milk product, aseptically processed and packaged milk and milk products, retort processed after packaged milk and milk products, dry milk, or dry milk product in final package form for direct human consumption unless the product has been pasteurized or is made from milk, milk product, condensed milk, condensed milk product, aseptically processed and packaged milk and milk products, retort processed after packaged milk and milk products, dry milk, or dry milk product that has all been pasteurized, except where alternative procedures to pasteurization are provided for under 21 CFR Part 133 for curing of certain cheese varieties.

2VAC5-490-90. Milk and milk products from beyond the limits of routine inspection.

No person may provide, sell, offer for sale, or store in the Commonwealth or bring, send, or receive, in the Commonwealth any condensed milk, condensed milk product, aseptically processed and packaged milk or milk products, retort processed after packaged milk or milk products, dry milk, dry milk product, or milk or milk product from outside the Commonwealth unless the condensed milk, condensed milk product, aseptically processed and packaged milk or milk products, retort processed after packaged milk or milk products, dry milk, dry milk product, or milk or milk products are produced and pasteurized, ultra-pasteurized, or aseptically processed and packaged, or retort processed after packaged under regulations ~~which~~ that are substantially equivalent to this chapter and the supply of the milk and the milk plant that produced the condensed milk, condensed milk product, aseptically processed and packaged milk or milk products, retort processed after packaged milk or milk products, dry milk, dry milk product, or milk or milk product has been awarded a milk sanitation compliance rating of at least 90 and an enforcement compliance rating of at least 90, or awarded an acceptable HACCP listing made by a state milk sanitation listing officer certified by the United States Public Health Service. The State Regulatory Authority may impound any condensed milk, condensed milk product, aseptically processed and packaged milk or milk products, retort processed after packaged milk or milk products, dry milk, dry milk product, or milk or milk product within the Commonwealth of Virginia if it does not comply with the requirements of this section.

2VAC5-490-100. Construction plans for dairy farms and milk plants.

No grade A permit holder may construct, reconstruct, or modify a milkhouse, milking barn, stable, or parlor, milk tank truck cleaning facility, transfer station, receiving station, or milk plant regulated under this chapter without submitting to the State Regulatory Authority written plans for review and approval before construction work is begun.

Part XI
Voluntary HACCP Program
Article 1
Program Participation

2VAC5-490-131. HACCP program participation voluntary.

A. Participation in the HACCP program is voluntary for each person who operates a dairy plant, receiving station, or transfer station and the State Regulatory Authority responsible for the permitting and auditing of each person's dairy plant, receiving station, or transfer station. No person operating a milk plant, receiving station, or transfer station may participate in the voluntary HACCP program unless the State Regulatory Agency responsible for the permitting and auditing of each person's dairy plant agrees to participate in the voluntary HACCP program; also.

B. Each person volunteering to operate his milk plant, receiving station, or transfer station under the voluntary HACCP program shall provide a written commitment to the State Regulatory Authority responsible for his milk plant, receiving station, or transfer station that he will supply the necessary resources to support participation in the voluntary HACCP program.

C. Each State Regulatory Authority volunteering to participate in the voluntary HACCP program shall provide a written commitment to the person requesting to operate a milk plant, receiving station, or transfer station under the voluntary HACCP program that the State Regulatory Authority will supply the necessary resources to support participation in the voluntary HACCP program.

D. Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall have a minimum of 60 days of HACCP ~~System~~ system records prior to a HACCP listing audit. Each milk plant, receiving station, or transfer station shall be inspected and permitted initially by the State Regulatory Authority and shall be regulated initially under the requirements of this chapter without taking into consideration the provisions of this part until the State Regulatory Authority conducts an acceptable HACCP listing audit documenting the successful implementation of a fully functioning HACCP ~~System~~ system in the person's milk plant, receiving station, or transfer station.

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E. Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall:

1. Comply with all of the provisions applicable to the voluntary HACCP program contained in the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision" to include:

a. ~~Section 7, Standards for grade "A" milk and milk products;~~

b. ~~Item 16p, Pasteurization and aseptic processing 16p(A), 16p(B), 16p(C), and 16p(D);~~

c. ~~Item 16p(E), Pasteurization and aseptic processing records, equipment tests and examinations;~~

d. ~~Section 13, Personnel health;~~

e. ~~d. Section 14, Procedure when infection or high risk of personnel health;~~

f. ~~e. Appendix H, Pasteurization Equipment and procedures;~~

g. ~~f. Appendix I, Pasteurization equipment and controls tests;~~

h. ~~g. Appendix K, HACCP Program; and~~

i. ~~h. Appendix R, Determination of Time/Temperature Control for Safety of Milk and Milk Products contained in the "Grade "A" Pasteurized Milk Ordinance, 2009 Revision"; and~~

j. Appendix S.

2. Prepare their HACCP ~~Plan~~ plan based on the following HACCP principles:

a. Conduct a hazard analysis;

b. Determine the critical control points;

c. Establish critical limits;

d. Establish monitoring procedures;

e. Establish corrective actions;

f. Establish verification procedures; and

g. Establish recordkeeping and documentation procedures;

3. Prior to the implementation of a HACCP ~~Plan~~ plan develop, document, and successfully implement written prerequisite programs ~~which~~ that provide the basic environment and operating conditions that are necessary for the production of safe, wholesome food.

Article 2

Implementation of a HACCP System

2VAC5-490-132. Prerequisite programs.

A. Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall:

1. Provide complete, up-to-date process flow diagrams for all grade A milk, milk products, condensed milk,

condensed milk products, dry milk, or dry milk products prior to developing the HACCP plan;

2. Provide a brief written description or checklist for each prerequisite program that can be audited against to endure compliance. Each prerequisite program shall include procedures that can be monitored, records that specify what is monitored, and how often it will be monitored;

3. Develop and implement prerequisite programs that address conditions and practices before, during, and after processing;

4. Develop and implement prerequisite programs that address:

a. Safety of the water that comes into contact with milk, milk products, condensed milk, condensed milk products, dry milk, dry milk products, or product-contact surfaces, including steam and ice;

b. Condition and cleanliness of equipment product-contact surfaces;

c. Prevention of cross-contamination from unsanitary objects ~~and~~ or practices to milk, milk products, condensed milk, condensed milk products, dry milk, dry milk products, or product-contact surfaces, packaging material, and other food-contact surfaces, including utensils, gloves, outer garments, ~~ete~~ etc., and from raw product to processed product;

d. Maintenance of hand washing, hand sanitizing, and toilet facilities;

e. Protection of milk, milk products, condensed milk, condensed milk products, dry milk, dry milk products, packaging material, and product-contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants;

f. Proper labeling, storage, and use of toxic compounds;

g. Control of employee health conditions, including employee exposure to high risk situations, that could result in the microbiological contamination of milk, milk products, condensed milk, condensed milk products, dry milk, dry milk products, packaging materials, and product-contact surfaces; and

h. Pest exclusion from the milk plant, receiving station, or transfer station;

5. In addition to the required prerequisite programs specified in this section, any other prerequisite programs that are being relied upon in the hazard analysis to reduce the likelihood of hazards such that they are not reasonably likely to occur shall also be monitored, audited, and documented as required prerequisite programs; and

6. Comply with the requirements of Appendix K of the "Grade "A" Pasteurized Milk Ordinance, 2013 Revision."

B. Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall:

1. Monitor the conditions and practices of all required prerequisite programs with sufficient frequency to ensure conformance with those conditions and that are appropriate both to the milk plant, receiving station, or transfer station and to the safety of the milk, milk products, condensed milk, condensed milk products, dry milk, or dry milk products being processed;
2. Document the correction of those conditions and practices that are not in conformance with all prerequisite programs;
3. Determine the frequency of calibration for indicating thermometers, recording thermometers, and other devices used to monitor prerequisite programs and ensure that they are properly calibrated to assure accuracy at the determined frequency; and
4. Maintain records that document the monitoring and corrections required by their prerequisite programs for review by the State Regulatory Authority.

2VAC5-490-136. Verification and validation.

A. Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall verify that the HACCP system is being implemented according to design, except that critical factors for aseptically processed and packaged grade A milk and milk products, as determined by the process authority and listed on the scheduled process under 21 CFR Part 113 shall be managed separately from the voluntary HACCP program, even if identified as a ~~Critical Control Point~~ critical control point in the hazard analysis. Critical factors identified in the scheduled process shall be monitored under the operating supervision of an individual who has successfully completed an approved course of instruction in low-acid canned foods as required by 21 CFR 108.35.

B. Each person operating a milk plant, receiving station or transfer station and participating in the voluntary HACCP program shall include in their verification activities:

1. The calibration of ~~Critical Control Point~~ critical control point process-monitoring instruments;
2. At the option of the person operating a milk plant, receiving station, or transfer station, the performance of periodic end-product or in-process testing;
3. A review, including signing and dating, by an individual who has been trained in accordance with the training requirements of this chapter, of the records that document:
 - a. The monitoring of ~~Critical Control Points~~ critical control points;
 - b. The taking of corrective action; and
 - c. The calibrating of any process monitoring instruments used at ~~Critical Control Points~~ critical control points and

the performance of any periodic end-product or in-process testing that is part of HACCP ~~Plan~~ plan verification activities;

4. The taking of corrective action procedures whenever any verification procedure establishes the need to take a corrective action; and
5. The calibration of ~~Critical Control Point~~ critical control point process-monitoring instruments, and the performance of any periodic end-product and in-process testing, in accordance with subdivisions 3 a and b of this subsection, shall be documented in records and maintained as required by this chapter.

C. Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall:

1. Validate that the HACCP plan is adequate to control hazards that are reasonably likely to occur at least once within 12 months after implementation of the HACCP system and annually thereafter or whenever any changes in the process occur that could affect the hazard analysis or alter the HACCP plan;
2. Ensure the validation is performed by a qualified individual or individuals trained in accordance with the requirements of this chapter;
3. Ensure the validation is documented and the records maintained as required by this chapter; and
4. Ensure the HACCP plan is modified immediately whenever a validation reveals that the HACCP plan is no longer adequate.

D. Whenever a milk plant, receiving station, or transfer station does not have a HACCP plan, because a hazard analysis has revealed no hazards that are reasonable likely to occur, the person operating the milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall reassess the adequacy of the hazard analysis whenever there are any changes in the process that could reasonably affect whether a hazard exists.

2VAC5-490-138. Training.

Each person operating a milk plant, receiving station, or transfer station and participating in the voluntary HACCP program shall ensure that each person who is responsible for: (i) developing a hazard analysis; (ii) delineating control measures; (iii) developing a HACCP plan that is appropriate for the specific milk plant, receiving station, or transfer station; (iv) validating and modifying the HACCP plan; or (v) performing required HACCP plan record reviews has received basic HACCP training and an orientation to the HACCP requirements contained in Appendix K of the "Grade "A" Pasteurized Milk Ordinance, 2009 2013 Revision."

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Part XII Interpretation and Enforcement

2VAC5-490-140. Interpretation and enforcement.

A. This chapter is based on the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision." Except as otherwise provided in this chapter, the provisions of this chapter shall be interpreted in a manner consistent with interpretations accorded the "Grade "A" Pasteurized Milk Ordinance, ~~2009~~ 2013 Revision."

B. The administrative procedures used to conduct case decisions under this chapter shall conform to the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

C. The State Regulatory Authority shall comply with the following administrative procedures when summarily suspending a grade A permit as specified in 2VAC5-490-31 B:

1. The State Regulatory Authority shall serve upon the grade A permit holder a written notice of suspension. The written notice of suspension shall specify the violations in question and inform the grade A permit holder of the right to appear before the State Regulatory Authority in person, by counsel, or by other qualified representative at a fact-finding conference for the informal presentation of factual data, arguments, and proof to appeal this determination of violation;

2. Upon receipt of written application from any person whose grade A permit has been summarily suspended (within 30 days after the effective date of the summary suspension) the State Regulatory Authority shall within seven days after the date of receipt by the State Regulatory Authority of a written application from any person whose grade A permit has been summarily suspended proceed to hold an informal fact-finding conference to ascertain the facts of the violations in question and upon evidence presented at the informal fact-finding conference shall affirm, modify, or rescind the summary suspension;

3. The State Regulatory Authority shall, unless the parties consent, ascertain the fact basis for their decisions of cases through informal conference proceedings. Such conference proceedings include the rights of parties to the case to have reasonable notice thereof, to appear in person or by counsel or other qualified representative before the State Regulatory Authority for the informal presentation of factual data, argument, or proof in connection with any case, to have notice of any contrary fact basis or information in the possession of the agency ~~which~~ that can be relied upon in making an adverse decision, to receive a prompt decision of any application for license, benefit, or renewal thereof, and to be informed, briefly and generally in writing, of the factual or procedural basis for an adverse decision in any case;

4. No person whose grade A permit has been summarily suspended may be granted an informal fact-finding conference by the State Regulatory Authority unless the State Regulatory Authority receives the person's written application within 30 days after the effective date of the summary suspension;

5. From any adverse decision of an informal fact-finding conference, the grade A permit holder may request a formal hearing under § 2.2-4020 of the Code of Virginia by writing the Program Manager of the Office of Dairy and Foods within 30 days stating the request and by providing the State Regulatory Authority with a statement of the issues in dispute. If the request for a formal conference is denied, the State Regulatory Authority shall notify the grade A permit holder in writing and further may affirm or modify the decision of the informal fact-finding conference; and

6. If a formal fact-finding conference is denied, the State Regulatory Authority shall notify the grade A permit holder of the right to file an appeal in the circuit court.

DOCUMENTS INCORPORATED BY REFERENCE (2VAC5-490)

~~Drug Residue Test Methods for Confirmation of Presumptive Positive Results and Initial Producer Trace Back, M I 96 10 (Revision #7), January 4, 2010 published by the Food and Drug Administration, Dairy and Egg Branch (HFS 316), 5100 Paint Branch Parkway, College Park, MD 20740 3835.~~

~~Evaluation of Milk Laboratories, 2009 Revision, published by the Food and Drug Administration Laboratory Proficiency and Evaluation Team, HFH 450, 6502 South Archer Road, Summit Argo, Illinois 60501.~~

~~Grade "A" Pasteurized Milk Ordinance, 2009 Revision, published by the Food and Drug Administration, Milk Safety Branch (HFS 626), 5100 Paint Branch Parkway, College Park, MD 20740 3835.~~

~~Official Methods of Analysis of the Association of AOAC International, 18th Edition, 2005, published by the Association of Official Analytical Chemists International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877 2417.~~

~~Uniform Methods and Rules: Brucellosis Eradication—effective October 1, 2003, available from U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Federal center Building, Hyattsville, Maryland 20782 or Federal Veterinarian in Charge, USDA/APHIS VS, Virginia Area Office, 7th Floor, Federal Building, 400 N. 8th Street, Richmond, Virginia 23240.~~

~~Uniform Methods and Rules: Bovine Tuberculosis Eradication—effective January 1, 2005, available from U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, federal Center Building, Hyattsville, Maryland 20782 or Federal~~

Veterinarian in Charge, USDA/APHIS VS, Virginia Area Office, 7th Floor, Federal Building, 400 N. 8th Street, Richmond, Virginia 23240.

[Bovine Tuberculosis Eradication: Uniform Methods and Rules](#), effective January 1, 2005, available from U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Federal Center Building, Hyattsville, Maryland 20782, or Assistant District Director, USDA/APHIS-VS, Virginia Area Office, 7th Floor, Federal Building, 400 North 8th Street, Richmond, Virginia 23240

[Brucellosis Eradication: Uniform Methods and Rules](#), effective October 1, 2003, available from U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Federal Center Building, Hyattsville, Maryland 20782, or Assistant District Director, USDA/APHIS-VS, Virginia Area Office, 7th Floor, Federal Building, 400 North 8th Street, Richmond, Virginia 23240

[Drug Residue Test Methods for Confirmation of Presumptive Positive Results and Initial Producer Trace Back, M-I-96-10 \(Revision #8\)](#), March 22, 2012, published by the Food and Drug Administration, Dairy and Egg Branch (HFS 316), 5100 Paint Branch Parkway, College Park, Maryland 20740-3835

[Evaluation of Milk Laboratories, 2011 Revision](#), published by the Food and Drug Administration Laboratory Proficiency and Evaluation Team, HFH-450, 6502 South Archer Road, Bedford Park, Illinois 60501

[Grade "A" Pasteurized Milk Ordinance, 2013 Revision](#), published by the Food and Drug Administration, Milk Safety Branch (HFS-626), 5100 Paint Branch Parkway, College Park, Maryland 20740-3835

[Official Grade "A" Pasteurized Milk Ordinance Regulatory Laboratory Tests for Grade "A" Milk and Milk Products and Grade "A" Dairy Farm and Milk Plant Water, "M-a-98"](#), March 1, 2013

[Official Methods of Analysis of the Association of AOAC International, 19th Edition, 2012](#), published by the Association of Official Analytical Chemists International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877-2417

VA.R. Doc. No. R14-4028; Filed July 15, 2014, 3:00 p.m.

◆ ————— ◆
TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A

11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Final Regulation

Title of Regulation: 4VAC20-450. Pertaining to the Taking of Bluefish (amending 4VAC20-450-10, 4VAC20-450-20, 4VAC20-450-30).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: August 1, 2014.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments establish the Virginia 2014 commercial bluefish quota as 886,040 pounds and clarify the regulation.

4VAC20-450-10. Purpose.

The purposes of this chapter are to ~~control~~ manage the recreational harvest of bluefish and to establish a commercial quota system for Virginia bluefish landings, in cooperation with the Mid-Atlantic Fishery Management Council and ~~other~~ eastal states the Atlantic States Marine Fisheries Commission, to prevent overfishing.

4VAC20-450-20. Bluefish possession limit.

A. It shall be unlawful for any person fishing with recreational hook and line, rod and reel, spear, gig, or other recreational gear to harvest and possess more than 10 bluefish. Any bluefish taken after the possession limit of 10 fish has been reached shall be returned to the water immediately.

B. When fishing from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible licensed to fish multiplied by 10. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

4VAC20-450-30. Commercial landings quota.

A. During the period of January 1 through December 31, commercial landings of bluefish shall be limited to ~~1,078,179~~ 886,040 pounds in 2013 and 886,040 pounds in 2014.

B. When it is projected that 95% of the commercial landings quota has been realized, a notice will be posted to close commercial harvest and landings from the bluefish fishery within five days of posting.

C. It shall be unlawful for any person to harvest or land bluefish for commercial purposes after the closure date set forth in the notice described in subsection B of this section.

VA.R. Doc. No. R14-4112; Filed July 29, 2014, 10:16 a.m.

Regulations

Final Regulation

Title of Regulation: 4VAC20-1090. Pertaining to Licensing Requirements and License Fees (amending 4VAC20-1090-10, 4VAC20-1090-30).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: August 1, 2014.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments (i) update the recreational license fees for the Combined Sportfishing License and the Five-Day Combined Sportfishing Trip License; (ii) add the Tidal Boat Sportfishing License; and (iii) add a separate category for the commercial license for harvesting menhaden.

4VAC20-1090-10. Purpose.

The purpose of this regulation is to specify the fees for each license required of ~~persons~~ any person to take, catch, harvest, possess or market fish, oysters, crabs, clams or other seafood species in the tidal waters of Virginia for commercial purposes or to take, catch or possess any species for recreational purposes. The license fees described in this regulation supersede those fishing license fees described in Title 28.2 of the Code of Virginia.

4VAC20-1090-30. License fees.

The following listing of license fees applies to any person who purchases a license for the purposes of harvesting for commercial purposes, or fishing for recreational purposes, during any calendar year. The fees listed below include a \$1.00 agent fee.

1. COMMERCIAL LICENSES-	
Commercial Fisherman Registration License	\$190.00
Commercial Fisherman Registration License for a person 70 years or older	\$90.00
Delayed Entry Registration.	\$190.00
Delayed Entry Registration License for a person 70 years or older	\$90.00
Seafood Landing License for each boat or vessel	\$175.00
For each Commercial Fishing Pier over or upon subaqueous beds (mandatory)	\$83.00
Seafood Buyer's License -- For each boat or motor vehicle	\$63.00

Seafood Buyer's License -- For each place of business	\$126.00
Clam Aquaculture Product Owner's Permit	\$10.00
Oyster Aquaculture Product Owner's Permit	\$10.00
Clam Aquaculture Harvester's Permit	\$5.00
Oyster Aquaculture Harvester's Permit	\$5.00
Nonresident Harvester's License	\$444.00
2. OYSTER RESOURCE USER FEES	
Any licensed commercial fisherman harvesting oysters by hand	\$50.00
For any harvester using one or more gear types to harvest oysters or for any registered commercial fisherman who solely harvests or possesses any bushel limit described in 4VAC20-720-80, only one oyster resource user fee, per year, shall be paid	\$300.00
On any business shucking or packing no more than 1,000 gallons of oysters	\$500.00
On any business shucking or packing more than 1,000 but no more than 10,000 gallons of oysters	\$1,000.00
On any business shucking or packing more than 10,000 but no more than 25,000 gallons of oysters	\$2,000.00
On any business shucking or packing more than 25,000 gallons of oysters	\$4,000.00
On any oyster buyer using a single truck or location	\$100.00
On any oyster buyer using multiple trucks or locations	\$300.00
Commercial aquaculture operation, on riparian assignment or general oyster planting grounds	\$50.00
3. OYSTER HARVESTING, SHUCKING, AND BUYERS LICENSES	
Any person purchasing oysters caught from the public grounds of the Commonwealth or the Potomac River, for a single place of business with one boat or motor vehicle used for buying oysters	\$50.00

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Any person purchasing oysters caught from the public grounds of the Commonwealth or the Potomac River, for a single place of business with multiple boats or motor vehicles used for buying oysters	\$100.00	<u>5. CRAB POT LICENSES</u>	
		For up to 85 crab pots	\$48.00
		For over 85 but not more than 127 crab pots	\$79.00
		For over 127 but not more than 170 crab pots	\$79.00
		For over 170 but not more than 255 crab pots	\$79.00
For each person taking oysters by hand, or with ordinary tongs	\$10.00	For over 255 but not more than 425 crab pots	\$127.00
For each single-rigged patent tong boat taking oysters	\$35.00	<u>6. HORSESHOE CRAB AND LOBSTER LICENSES</u>	
For each double-rigged patent tong boat taking oysters	\$70.00	For each person harvesting horseshoe crabs by hand	\$16.00
Oyster Dredge Public Ground	\$50.00	For each boat engaged in fishing for, or landing of, lobster using less than 200 pots	\$41.00
Oyster Hand Scrape	\$50.00	For each boat engaged in fishing for, or landing of, lobster using 200 pots or more	\$166.00
To shuck and pack oysters, for any number of gallons under 1,000	\$12.00	<u>7. CLAM HARVESTING LICENSES</u>	
To shuck and pack oysters, for 1,000 gallons, up to 10,000	\$33.00	For each person taking or harvesting clams by hand, rake or with ordinary tongs	\$24.00
To shuck and pack oysters, for 10,000 gallons, up to 25,000	\$74.00	For each single-rigged patent tong boat taking clams	\$58.00
To shuck and pack oysters, for 25,000 gallons, up to 50,000	\$124.00	For each double-rigged patent tong boat taking clams	\$84.00
To shuck and pack oysters, for 50,000 gallons, up to 100,000	\$207.00	For each boat using clam dredge (hand)	\$19.00
To shuck and pack oysters, for 100,000 gallons, up to 200,000	\$290.00	For each boat using clam dredge (power)	\$44.00
To shuck and pack oysters, for 200,000 gallons or over	\$456.00	For each boat using hydraulic dredge to catch soft shell clams	\$83.00
<u>4. BLUE CRAB HARVESTING AND SHEDDING LICENSES, EXCLUSIVE OF CRAB POT LICENSES</u>		For each person taking surf clams	\$124.00
For each person taking or catching crabs by dip nets	\$13.00	<u>8. CONCH (WHELK) HARVESTING LICENSES</u>	
For ordinary trotlines	\$13.00	For each boat using a conch dredge	\$58.00
For patent trotlines	\$51.00	For each person taking channeled whelk by conch pot	\$51.00
For each single-rigged crab-scrape boat	\$26.00	<u>9. FINFISH HARVESTING LICENSES</u>	
For each double-rigged crab-scrape boat	\$53.00	Each pound net	\$41.00
For up to 210 peeler pots	\$36.00	Each stake gill net of 1,200 feet in length or under, with a fixed location	\$24.00
For up to 20 tanks and floats for shedding crabs	\$9.00	All other gill nets up to 600 feet	\$16.00
For more than 20 tanks or floats for shedding crabs	\$19.00		
For each crab trap or crab pound	\$8.00		

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All other gill nets over 600 feet and up to 1,200 feet	\$24.00	2. <u>11.</u> COMMERCIAL GEAR FOR RECREATIONAL USE-	
Each person using a cast net or throw net or similar device	\$13.00	Up to five crab pots	\$36.00
Each fyke net head, weir, or similar device	\$13.00	Crab trotline (300 feet maximum)	\$10.00
For fish trotlines	\$19.00	One crab trap or crab pound	\$6.00
Each person using or operating a fish dip net	\$9.00	One gill net up to 300 feet in length	\$9.00
On each haul seine used for catching fish, under 500 yards in length	\$48.00	Fish dip net	\$7.00
On each haul seine used for catching fish, from 500 yards in length to 1,000 yards in length	\$146.00	Fish cast net	\$10.00
For each person using commercial hook and line	\$31.00	Up to two eel pots	\$10.00
For each person using commercial hook and line for catching striped bass only	\$31.00	3. <u>12.</u> SALTWATER RECREATIONAL FISHING LICENSE-	
For up to 100 fish pots or eel pots	\$19.00	Individual, resident	\$17.50
For over 100 but not more than 300 fish pots or eel pots	\$24.00	Individual, nonresident	\$25.00
For over 300 fish pots or eel pots	\$62.00	Temporary 10-Day, resident	\$10.00
<u>10. MENHADEN HARVESTING LICENSES</u> Any person purchasing more than one of the following licenses, as described in this subsection, for the same vessel, shall pay a fee equal to that for a single license for the same vessel.		Temporary 10-Day, nonresident	\$10.00
		Recreational boat, resident	\$48.00
On each boat or vessel under 70 gross tons fishing for the purse seine menhaden reduction sector		Recreational boat, nonresident, provided a nonresident may not purchase a recreational boat license unless his boat is registered in Virginia	\$76.00
On each vessel 70 gross tons or over fishing for the purse seine menhaden reduction sector		Head Boat/Charter Boat, resident, six or less passengers	\$190.00
On each boat or vessel under 70 gross tons fishing for the purse seine menhaden bait sector		Head Boat/Charter Boat, nonresident, six or less passengers	\$380.00
On each vessel 70 gross tons or over fishing for the purse seine menhaden bait sector		Head Boat/Charter Boat, resident, more than six passengers, plus \$5.00 per person, over six persons	\$190.00
For up to 100 fish pots or eel pots		Head Boat/Charter Boat, nonresident, more than six passengers, plus \$5.00 per person, over six persons	\$380.00
For over 100 but not more than 300 fish pots or eel pots		Rental Boat, resident, per boat, with maximum fee of \$703	\$14.00
For over 300 fish pots or eel pots		Rental Boat, nonresident, per boat, with maximum fee of \$1270	\$18.00
		Commercial Fishing Pier (Optional)	\$632.00
		Disabled Resident Lifetime Saltwater License	\$10.00
		Disabled Nonresident Lifetime Saltwater License	\$10.00
		Reissuance of Saltwater Recreational Boat License	\$5.00

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Forms

REGISTRAR'S NOTICE: Forms used in administering the following regulation have been filed by the Virginia Waste Management Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

Title of Regulation: **9VAC20-90. Solid Waste Management Permit Action Fees and Annual Fees.**

Agency Contact: Melissa Porterfield, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, email melissa.porterfield@deq.virginia.gov.

FORMS (9VAC20-90)

[Solid Waste Information and Assessment Program Reporting Table, Form DEQ 50-25 \(rev. 11/12\)](#)

[Statement of Economic Benefits and Instructions for Completing Form DEQ 50-25 \(rev. 12/12\)](#)

~~[Solid Waste Annual Permit Fee Quarter Payment, Form PF001 \(rev. 7/13\)](#)~~

[Solid Waste Annual Permit Fee Quarter Payment, Form PF001 \(rev. 7/14\)](#)

V.A.R. Doc. No. R14-4119; Filed July 22, 2014, 8:54 a.m.

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Final Regulation

Title of Regulation: **13VAC5-21. Virginia Certification Standards (amending 13VAC5-21-10 through 13VAC5-21-61).**

Statutory Authority: § 36-137 of the Code of Virginia.

Effective Date: September 10, 2014.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments (i) require applicants for certification to have completed qualifying examinations and education not

<u>13. Combined Sportfishing License</u> COMBINED SPORTFISHING LICENSE	
This license is to fish in all inland waters and tidal waters of the Commonwealth during open season.	
Residents	\$35.00 \$39.50
Nonresidents	\$60.50 \$71.00
<u>14. Combined Sportfishing Trip License</u> COMBINED SPORTFISHING TRIP LICENSE	
This license is to fish in all inland waters and tidal waters of the Commonwealth during open season, for five consecutive days.	
Residents	\$21.00 \$24.00
Nonresidents	\$26.00 \$31.00
<u>15. TIDAL BOAT SPORTFISHING LICENSE</u>	
Residents	\$126.00
Nonresidents	\$201.00
<u>16. LIFETIME SALTWATER RECREATIONAL FISHING LICENSES</u>	
Individual Resident Lifetime License	\$276.00
Individual Nonresident Lifetime License	\$500.00
Individual Resident Lifetime License age 45 - 50	\$132.00
Individual Nonresident Lifetime License age 45 - 50	\$240.00
Individual Resident Lifetime License age 51 - 55	\$99.00
Individual Nonresident Lifetime License 51 - 55	\$180.00
Individual Resident Lifetime License age 56 - 60	\$66.00
Individual Nonresident Lifetime License age 56 - 60	\$120.00
Individual Resident Lifetime License age 61 - 64	\$35.00
Individual Nonresident Lifetime License age 61 - 64	\$60.00
Individual Resident Lifetime License age 65 and older	\$5.00

V.A.R. Doc. No. R14-4111; Filed July 29, 2014, 10:40 a.m.

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more than six years before submitting their applications; (ii) remove specified building code academy training modules for initial certification and, instead, refer to a required list of training modules maintained by the Department of Housing and Community Development; (iii) specify that the board will consider allowing training alternatives to training requirements listed in these regulations; and (iv) require nongovernmental certificate holders to meet the same continuing education requirements as those set forth in the Uniform Statewide Building Code for governmental certificate holders.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

13VAC5-21-10. Definitions.

A. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means a person seeking a certificate.

"BCAAC" means the Building Code Academy Advisory Committee appointed pursuant to subdivision 7 of § 36-137 of the Code of Virginia.

"BHCD" means the Virginia Board of Housing and Community Development.

"Certificate" means a certificate of competence issued pursuant to subdivision 6 of § 36-137 of the Code of Virginia concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the BHCD and issued to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia, Chapter 9 (§ 27-94 et seq.) of Title 27 of the Code of Virginia, and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.

"Certificate holder" means a person to whom a certificate has been issued.

"Code academy" means the Virginia Building Code Academy established under subdivision 14 of § 36-139 of the Code of Virginia or individual or regional training academies accredited by the department pursuant to subdivision 7 of § 36-137 of the Code of Virginia.

~~"DFP" means the Virginia Department of Fire Programs.~~

"Department" means the Virginia Department of Housing and Community Development.

"Nongovernmental employee" means any person not employed by a locality collecting and transmitting the fee levy to the department in accordance with subdivision 7 of § 36-137 of the Code of Virginia.

"SFPC" means the Virginia Statewide Fire Prevention Code (13VAC5-51).

"State Review Board" means the Virginia State Building Code Technical Review Board established under § 36-108 of the Code of Virginia.

"USBC" means the Virginia Uniform Statewide Building Code (13VAC5-63).

"VADR" means the Virginia Amusement Device Regulations (13VAC5-31).

B. Words and terms used in this chapter that are defined in the USBC, VADR, or SFPC and that are not defined in this chapter shall have the meaning ascribed to them in those regulations unless the context clearly indicates otherwise.

13VAC5-21-31. Qualification and examination requirements.

A. An applicant for a certificate in categories associated with the USBC or the SFPC shall provide a written or electronic endorsement from the code official or the code official's supervisor in the locality in which they are employed certifying that the applicant complies with the qualification section in the USBC or the SFPC for each type of certificate sought. When the applicant for a certificate in categories associated with the USBC or the SFPC is a ~~nongovernment~~ nongovernmental employee, the applicant shall provide written or electronic documentation that the applicant complies with the qualification section in the USBC or the SFPC as it would relate to the applicant's job responsibilities for each type of certificate sought.

B. An applicant for a certificate in categories associated with the VADR shall provide a written endorsement from the applicant's supervisor or a person having a similar relationship to the applicant certifying that the applicant is generally qualified to conduct activities related to the VADR.

C. Applicants for all certificates shall provide proof of successful completion of approved examinations for each certificate sought, ~~except as provided for in 13VAC5-21-45 based on current certification examination requirements.~~ Applications submitted with passing grades on approved examinations older than six years from the date of passing will be denied except where the applicant can demonstrate the maintenance of a current certification issued by the approved testing agency. The department may consider related certifications maintained by the certifying entity. The department shall maintain a list of approved testing agencies and examinations that meet nationally accepted standards for each certificate offered. For information on approved testing agencies and examinations contact the department's ~~Technical Assistance Services Office, 501 N. 2nd St.~~ Training and Certification Office, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7180.

13VAC5-21-41. Certification categories and training requirements.

A. The department maintains a list of all certificates offered and the list sets out the required training necessary to attend and complete to obtain a certificate. ~~This section also contains~~

~~specific training requirements for some certificates offered that may be duplicated on the list or that may be in addition to those on the list. Alternatives to the training requirements set out in 13VAC5-21-45 shall be permitted considered for all certificates offered except that no alternative shall be accepted for the code academy core module.~~

B. Applicants for certificates shall attend and complete the code academy core module. ~~In addition to~~ After the completion of the core module, applicants ~~for the following certificates are required to attend and complete the following code academy training as set out in a list maintained by the department, except as provided for in 13VAC5-21-45. All required training must be completed within no more than six years prior to the date the application is submitted and the requirements for training are based on those in effect at the time of application.~~

Certificate	Code Academy Training
Building official	Advanced official module
Fire official	Advanced official module and the 1031 school as administered by DFP
Building maintenance official	Advanced official module and the property maintenance module
Fire prevention inspector	The 1031 school as administered by DFP
Amusement device inspector	Amusement device inspection module

13VAC5-21-45. Alternatives to ~~examination and training requirements.~~

~~A. An applicant for a certificate with the written endorsement or documentation required by 13VAC5-21-31 may submit a written request to the department to approve an equivalent examination by a testing agency not on the list of approved testing agencies to satisfy the examination requirements of 13VAC5-21-31. BCAAC may be consulted with in any such consideration.~~

~~B.~~ Upon written request, alternative training or a combination of training, education or experience to satisfy the training requirements of 13VAC5-21-41 may be approved, provided that such alternatives or combinations are determined to be equivalent to that required. However, as provided in 13VAC5-21-41, no substitutions shall be approved for the code academy core module. The types of combinations of education and experience may include military training, college classes, technical schools or long-term work experiences, except that long-term work experiences shall not be approved as the sole substitute to satisfy the training requirements. BCAAC may be consulted with in any such consideration.

13VAC5-21-51. Issuance and maintenance of certificates.

A. Certificates will be issued when an applicant has complied with the current applicable requirements of this chapter. Certificate holders will be classified as active ~~or inactive, or lapsed~~. An active certificate holder is a person who is certified and who has attended all periodic training courses designated by the department and complied with all continuing education requirements subsequent to becoming certified. An inactive certificate holder is a person who is certified ~~but and has not either attended all such the periodic training courses designated by the department or met the continuing education requirements, but not both~~. An inactive certificate holder may request reinstatement as an active certificate holder after completing ~~make-up~~ makeup training courses authorized by the department. A lapsed certificate holder is a person who is certified but has not attended all periodic training courses designated by the department and who has not complied with all continuing education requirements. A lapsed certificate holder may request reinstatement as an active certificate holder after completing makeup training courses or examinations, or both, as authorized by the department. Provisional certificates may also be issued in accordance with subsection C of this section. Requirements for periodic training courses and continuing education requirements are set out in subsection D of this section.

B. All certificates issued since June 1978 are considered to be valid unless revoked or suspended, except that provisional certificates shall remain valid as set out under subsection C of this section.

C. A provisional certificate may be issued to (i) a person who has been directed by the department to obtain a certificate; (ii) an applicant requesting a certificate under the alternative ~~examination or training provisions of 13VAC5-21-45; or~~ (iii) an applicant when the required training has not been provided or offered; (iv) an inactive or lapsed certificate holder when the issuance of a provisional certificate is determined to be warranted by the department; or (v) a person who, due to extenuating and warranting circumstances either on behalf of the code academy or beyond the person's control, has not fully complied with the eligibility requirements of training and competency established herein.

Such a provisional certificate may be issued when the applicant or person has (i) provided the written endorsement or documentation required by 13VAC5-21-31, (ii) satisfactorily completed the code academy core module, and (iii) completed any training through the code academy or through other providers determined to warrant the issuance of the provisional certificate.

The provisional certificate is valid for a period of one year after the date of issuance and shall only be issued once to any individual, except that a provisional certificate shall remain valid when the required training has not been provided or offered.

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D. All certificate holders shall attend periodic maintenance training as designated by the department and shall attend 16 hours of continuing education every two years as approved by the department. If a certificate holder possesses more than one certificate, the 16 hours shall satisfy the continuing education requirement for all certificates.

13VAC5-21-61. Sanctions.

When the BHCD determines a certificate holder has failed to (i) comply with an order issued by the State Review Board or failed to, (ii) meet the required training or testing requirements, or (iii) attend periodic maintenance training or continuing education, or both, a warning letter may be issued to the certificate holder or a certificate may be revoked or

suspended by the BHCD. In such cases, a noncompliance notice shall be issued to the certificate holder and notification shall be provided to the locality or company employing the certificate holder. Exceptions to the issuance of a noncompliance notice for failing to comply with the continuing education requirements may be considered where there is a separation from employment by medical or military leave for 12 consecutive months or more during the continuing education period. A record of any action taken pursuant to this section shall be permanently retained in the training record of the certificate holder.

VA.R. Doc. No. R13-3407; Filed July 18, 2014, 9:58 a.m.

Final Regulation

Title of Regulation: 13VAC5-51. Virginia Statewide Fire Prevention Code (amending 13VAC5-51-145).

Statutory Authority: § 27-97 of the Code of Virginia.

Effective Date: September 1, 2014.

On July 28, 2014, the Board of Housing and Community Development readopted without amendment the suspended "Permissible fireworks" row in Table 5003.1.1(1) of 13VAC5-51-145 E of the Virginia Statewide Fire Prevention Code. This provision was initially adopted by the board with an effective date of July 14, 2014, as published in [30:16 VA.R. 2058 on April 7, 2014](#). On May 19, 2014, the board suspended the permissible fireworks provision pursuant to § 2.2-4007.06 of the Code of Virginia. Notice of the suspension and an additional 30-day comment period were published in [30:20 VA.R. 2483 on June 2, 2014](#).

The "Permissible fireworks" row in Table 5003.1.1(1) as readopted by the board amends 13VAC5-51-145 E as follows and is effective September 1, 2014:

E. Change the "Consumer fireworks" row in and add a new "Permissible fireworks" row to Table 5003.1.1(1) to read:

Consumer fireworks	1.4G	H-3	125 ^{e,l}	N/A						
<u>Permissible fireworks</u>	<u>1.4G</u>	<u>H-3</u>	<u>125^{d,e,l}</u>	<u>N/A</u>						

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R12-3161; Filed July 29, 2014, 11:51 a.m.

Final Regulation

Title of Regulation: 13VAC5-63. Virginia Uniform Statewide Building Code (amending 13VAC5-63-210).

Statutory Authority: § 36-98 of the Code of Virginia.

Effective Date: September 1, 2014.

On July 28, 2014, the Board of Housing and Community Development readopted without amendment the suspended "Permissible fireworks" row in Table 307.1(1) of 13VAC5-63-210 C of the Uniform Statewide Building Code. This provision was initially adopted by the board with an effective date of July 14, 2014, as published in [30:16 VA.R. 2093 on April 7, 2014](#). On May 19, 2014, the board suspended the permissible fireworks provision pursuant to § 2.2-4007.06 of the Code of Virginia. Notice of the suspension and an additional 30-day comment period were published in [30:20 VA.R. 2483 on June 2, 2014](#).

The "Permissible fireworks" row in Table 307.1(1) as readopted by the board amends 13VAC5-63-210 C as follows and is effective September 1, 2014:

C. Change the "Consumer fireworks" row in and add a new "Permissible fireworks" row to Table 307.1(1) of the IBC to read:

Consumer fireworks	1.4G	H-3	125 ^{e,l}	N/A						
<u>Permissible fireworks</u>	<u>1.4G</u>	<u>H-3</u>	<u>125^{d,e,l}</u>	<u>N/A</u>						

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R12-3159; Filed July 29, 2014, 11:51 a.m.

Final Regulation

Title of Regulation: **13VAC5-80. Virginia Standards for Individual and Regional Code Academies (amending 13VAC5-80-10, 13VAC5-80-60, 13VAC5-80-80, 13VAC5-80-90, 13VAC5-80-120, 13VAC5-80-140).**

Statutory Authority: § 36-137 of the Code of Virginia.

Effective Date: September 10, 2014.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments (i) clarify the existing mandatory requirements for local and regional code academies formed to provide training to enforcement personnel of the state building and fire regulations and (ii) define the requirements for conducting classes for initial accreditation to prepare an individual to pursue an occupation in the inspection profession relating to the enforcement of the Uniform Statewide Building Code, the Statewide Fire Prevention Code, and the Virginia Amusement Device Regulations and for renewal of accreditation to upgrade an individual in the technical phases of these codes.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

13VAC5-80-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"BHCD" means the Virginia Board of Housing and Community Development.

"Certificate of Accreditation" means the certificate issued to an individual or regional code academy that accredits that code academy to conduct educational programs for persons seeking to become BHCD-certified for enforcement of Virginia's building-related and fire-related regulations.

"Code Academy" means an educational institution established in accordance with § 36-137 of the Code of Virginia that is accredited by DHCD to conduct classes to prepare an individual to pursue an occupation in the inspection profession relating to enforcement of the USBC,

VADR₂ and SFPC, or to upgrade an individual in technical phases of the USBC, VADR₂ and SFPC.

"DHCD" means the Virginia Department of Housing and Community Development.

"Operator" means the person designated as the executive official in charge of the ~~code academy~~ Code Academy.

"SFPC" means the Virginia Statewide Fire Prevention Code (13VAC5-51).

"Train the Trainer" means the DHCD training provided for ~~code academy~~ Code Academy instructors.

~~"TRB" means the Virginia State Building Code Technical Review Board established under § 36-108 of the Code of Virginia.~~

"USBC" means the Virginia Uniform Statewide Building Code (~~13VAC5-62~~) (13VAC5-63).

"VADR" means the Virginia Amusement Device Regulations (13VAC5-31).

13VAC5-80-60. Application for accreditation.

A. Any Code Academy seeking a Certificate of Accreditation shall submit the information required by these standards, on forms provided by DHCD, 120 calendar days prior to the date for which approval is requested.

B. The operator shall reimburse DHCD for the cost of processing and monitoring the accreditation.

C. The following information shall be submitted as part of the application:

1. A budget documenting the financial resources available to equip, maintain, and operate the ~~code academy~~ Code Academy and proposed expenditures;
2. The educational and teaching qualifications of the operator and instructors;
3. The individual courses of instruction ~~which that~~ will be offered, ~~and~~ the purpose of such instructions, and an instruction schedule including proposed dates, times, and instructors. The course listing shall include state Code Academy courses required for certification and continuing education programs;
4. A listing of any equipment available to aid instruction in each field;
5. The maximum anticipated enrollment to be accommodated with the equipment available in each specified field, and the ratio of students to instructors, which shall not exceed 50 to 1 for lecture format courses; and 20 to 1 for interactive courses;
6. The locations where such instruction will take place; and
7. Any additional information that DHCD may deem necessary to carry out the provisions of this chapter.

D. Each application for a Certificate of Accreditation shall also include the following commitments:

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1. Conduct the Code Academy in accordance with all standards and regulations promulgated by DHCD and BHCD;

2. Permit DHCD to inspect the Code Academy at any time, and to provide all information pertaining to the activities of the Code Academy or its financial condition as requested by DHCD;

3. ~~The Use the~~ levy retained under § 36-137 of the Code of Virginia ~~shall not be used only~~ for purposes ~~other than~~ directly relating to the operation of the Code Academy;

4. Conduct all state certification courses in accordance with DHCD content and delivery requirements;

5. In the event that the Code Academy should close, a list of enrolled students who have not completed their program of study; and the amount of the course ~~which that~~ they have completed; shall be submitted to DHCD;

6. Maintain current, complete and accurate student records, including a record of all hours of work completed by each student;

7. Submit quarterly activity reports on forms provided by DHCD. The reports shall include:

- a. Training activities conducted during a quarter;
- b. Expenditures for conducted training activities;
- c. Expenditures for related activities; and
- d. Anticipated adjustments to approved activities at the time of accreditation; and

8. Submit final activity and budget reports on forms provided by DHCD within 90 days prior to the end of the accreditation period. The reports shall include:

- a. A training and activity report, including courses, programs, instructors, and student statistics;
- b. A report detailing related activities;
- c. A report on expenditures on all activities and purchases including revenue collected and any carryover balance; and
- d. Summary of the accreditation year.

13VAC5-80-80. Renewal of certificate.

A. Every Code Academy shall apply for renewal of its Certificate of Accreditation no later than April 15 of each year, on forms provided by DHCD. ~~The application for renewal following information shall include a current training schedule.~~ be submitted as part of the renewal application:

1. Proposed state certification course and continuing education training schedule for accreditation for the renewal period, including a delivery schedule, instructors, target participants, site logistics, and proposed budget;

2. Proposed related activities such as, but not limited to, equipment and related training purchases, conferences, and outside training events;

3. Anticipated revenue for the operation of the academy; budget for all training activities, academy staffing, and related purchases; and anticipated carryover funds;

4. Any changes to the initially approved instructor list; and

5. The following commitments:

a. Conduct the Code Academy in accordance with all standards and regulations promulgated by DHCD and BHCD;

b. Permit DHCD to inspect the Code Academy at any time and provide all information pertaining to the activities of the Code Academy or its financial condition as requested by DHCD;

c. Use the levy retained under § 36-137 of the Code of Virginia only for purposes directly relating to the operation of the Code Academy;

d. Conduct all state certification courses in accordance with DHCD content and delivery requirements;

e. In the event that the Code Academy should close, submit to DHCD a list of enrolled students who have not completed their program of study and the amount of the course that they have completed; and

f. Maintain current, complete, and accurate student records, including a record of all hours of work completed by each student.

B. Every Certificate of Accreditation shall expire upon failure to obtain renewal by June 30 of each year.

13VAC5-80-90. Personnel qualifications.

A. Any director of the Code Academy shall demonstrate a working knowledge of USBC, VADR, and SFPC training-related technology and shall possess a minimum of two years of supervisory experience. Managerial experience and a college degree from an accredited college or university are preferred.

B. All instructors shall have knowledge and experience in the trade or profession in which the instructor teaches. Instructors teaching the state-required certification courses shall have DHCD-approved experience as an instructor or shall have successfully completed a "Train the Trainer" or DHCD-approved equivalent course and hold active DHCD instructor certification and active certifications in the discipline in which they are teaching.

C. DHCD shall be notified of any staff or instructor changes within the ~~code academy~~ Code Academy subsequent to receiving accreditation. Staff changes forwarded to DHCD shall include qualifications of the instructors.

13VAC5-80-120. Withdrawal Approval of initial application, withdrawal of course approval, and revocation, suspension, or refusal to renew a certificate of accreditation.

A. DHCD may deny an initial application; withdraw course approval; or revoke, suspend, or refuse to renew; any ~~code~~

academy's Code Academy's Certificate of Accreditation for any of the following:

1. ~~Violation of~~ Violating any provision of this chapter;
2. Furnishing false, misleading, or incomplete information to DHCD, or failure to furnish information requested by DHCD within a reasonable time;
3. Presenting to a student any information that is false, misleading, or fraudulent;
4. ~~Failure~~ Failing to maintain the premises in a safe and sanitary condition as required by law, state regulation, or local ordinance;
5. Failing to maintain adequate financial resources to satisfactorily conduct the courses of instruction offered, or to retain an adequate, qualified staff.

B. DHCD shall notify the operator by certified mail 30 calendar days prior to the effective date of any withdrawal of course approval, or revocation of, suspension of, or refusal to renew a Certificate of Accreditation.

13VAC5-80-140. Records.

DHCD shall maintain records on all actions, findings, and recommendations concerning the initial application approval or denial, or approval of, revocation of, suspension of, or refusal to renew any Certificate of Accreditation. All records shall be available to the public, upon request.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.s

FORMS (13VAC5-80)

[DHCD Regional and Local Code Academy Accreditation Application Budget Detail \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Accreditation Application Course/Conference Detail \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Expense Summary Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Annual Report Cover Sheet \(undated\)](#)

[DHCD Regional and Local Code Academy Annual Report \(undated\)](#)

[DHCD Regional and Local Code Academy Administrative Expense Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Course Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Monthly Expense Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Revenue Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Accreditation Projected Expense Summary \(eff. 9/13\)](#)

V.A.R. Doc. No. R13-3470; Filed July 18, 2014, 10:00 a.m.

Final Regulation

Title of Regulation: **13VAC5-95. Virginia Manufactured Home Safety Regulations (amending 13VAC5-95-10, 13VAC5-95-20, 13VAC5-95-30, 13VAC5-95-50, 13VAC5-95-60, 13VAC5-95-80, 13VAC5-95-90, 13VAC5-95-100; repealing 13VAC5-95-40, 13VAC5-95-70).**

Statutory Authority: § 36-85.7 of the Code of Virginia.

Effective Date: September 10, 2014.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments (i) incorporate by reference the recent changes and additions to the Federal Construction Standards of the federal Department of Housing and Urban Development (HUD) and specify the new mandated HUD installation standards for manufactured housing; (ii) more thoroughly define installation of manufactured homes; (iii) clarify the role of local building officials by providing more detail regarding enforcement responsibilities; (iv) provide clarification concerning alterations in new and existing manufactured homes; and (v) clarify the civil penalty and fines resulting from violations of the laws and regulations.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

13VAC5-95-10. Definitions.

A. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"~~Act~~" or "~~the Act~~" means the ~~National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 USC § 5401 et seq.).~~

"Administrator" means the Director of DHCD or his designee.

"DHCD" means the Virginia Department of Housing and Community Development.

"Dealer" means any person engaged in the sale, lease, or distribution of manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

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"Defect" means a failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part of the home unfit for the ordinary use of which it was intended, but does not result in an imminent risk of death or severe personal injury to occupants of the affected home.

"Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.

"Federal Act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 USC § 5401 et seq.).

"Federal installation standards" means the federal Model Manufactured Home Installation Standards (24 CFR Part 3285).

~~"Federal regulation regulations" means the federal Manufactured Home Procedural and Enforcement Regulations, enacted May 13, 1976, under authority granted by § 625 of the Act, and designated as Part 3282, Chapter XX, Title 24 of HUD's regulations (24 CFR Part 3282). (Part 3282 consists of subparts A through L, with sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)~~

"HUD" means the United States Department of Housing and Urban Development.

"Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction or safety standard.

"Installation" means completion of work to include, but not be limited to, stabilizing, supporting, anchoring, and closing-up a manufactured home and joining sections of a multi-section manufactured home, when any such work is governed by the federal installation standards.

"Installer" means the person or entity who is retained to engage in or who engages in the business of directing, supervising, controlling, or correcting the initial installation of a manufactured home.

~~"Label," or "certification label," or "HUD label" means the approved form of certification label prescribed by the manufacturer that, under 24 CFR 3282.362(e)(2)(i) of the Manufactured Home Procedural and Enforcement Regulations, is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States federal standards.~~

"Local code building official" means the officer or other designated authority charged with the administration and enforcement of USBC, or duly authorized representative.

"Manufactured home" means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is

designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

"Manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

"Noncompliance" means a failure of a manufactured home to comply with a federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard.

"Purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

"Secretary" means the Secretary of HUD.

"Serious defect" means any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

"Standards" or "federal standards" means the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) adopted by HUD, in accordance with authority in the Federal Act. The standards were enacted December 18, 1975, and amended May 11, 1976, to become effective June 15, 1976.

"State administrative agency" or "SAA" means DHCD which is responsible for the administration and enforcement of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 of the Code of Virginia throughout Virginia and of the plan authorized by § 36-85.5 of the Code of Virginia.

"USBC" means the Virginia Uniform Statewide Building Code (13VAC5-63).

B. Terms defined within the federal regulations and federal standards shall have the same meanings in this chapter.

13VAC5-95-20. Application and enforcement.

A. This chapter shall apply to manufactured homes as defined in 13VAC5-95-10 and ~~13VAC5-95-20~~ as set out in this section.

B. Enforcement of this chapter shall be in accordance with the federal ~~regulation regulations~~.

C. Manufactured homes produced on or after June 15, 1976, shall conform to all the requirements of the federal standards, as amended.

D. DHCD is delegated all lawful authority for the enforcement of the federal standards pertaining to manufactured homes by the administrator according to § 36-85.5 of the Code of Virginia. The Division of Building and Fire Regulation of DHCD is designated as a state administrative agency in the HUD enforcement program, and

shall act as an agent of HUD. The administrator is authorized to perform the activities required of an SAA by the HUD enforcement plan including, but not limited to, investigation, citation of violations, handling of complaints, conducting hearings, supervising remedial actions, monitoring, and making such reports as may be required, and seeking enforcement of the civil and criminal penalties established by § 36-85.12 of the Code of Virginia.

~~E. All~~ In accordance with § 36-85.11 of the Code of Virginia, all local code building officials are authorized by § 36-85.11 of the Code of Virginia to and shall enforce the provisions of this chapter within the limits of their jurisdiction. Such local code officials shall enforce this chapter, subject to the general oversight of the Division of Building and Fire Regulation and shall not permit the use of any manufactured home containing a serious defect or imminent safety hazard within their jurisdiction. and shall be responsible for the following:

1. Verify through inspection that a manufactured home displays the required HUD label and data plate;
2. Determine whether the manufactured home has been damaged during transit. If the manufactured home has been damaged, then the local building official is authorized to require tests, in accordance with the federal standards, for tightness of plumbing systems and gas piping and an operational test to ensure that all luminaries and receptacles are operable. If a manufactured home has sustained damage to the structural components, the local building official shall require the appropriate design approval primary inspection agency approval on any repairs or designs;
3. Prevent the use of a manufactured home that in the opinion of the local building official contains a serious defect or imminent safety hazard, and notify the administrator immediately;
4. Notify the administrator of any apparent violations of this chapter, to include defects and noncompliance that occurred during the manufacturing process and any alterations that occurred during installation; and
5. Verify through inspection that the installation is in accordance with the federal installation standards. Where the local building official finds that the installation of the manufactured home is not in accordance with the federal installation standards, the local building official shall order the home to be brought into compliance within a reasonable time. If the order is not complied with, then the local building official shall notify the administrator.

~~F. Mounting and anchoring of~~ In accordance with § 36-85.11 of the Code of Virginia, site preparation, utility connection, and skirting installation for manufactured homes shall [be in accordance with meet] the [applicable] requirements of the USBC. [In addition, as a requirement of this chapter and the USBC, administrative provisions of the USBC, such as requirements for permits, inspections, and

certificates of occupancy, and the specific requirements of § 425 of Part I of the USBC (13VAC5-63-220 L through 13VAC5-63-220 Q), shall also be applicable.]

13VAC5-95-30. Effect of label.

~~A. In accordance with § 36-85.11 of the Code of Virginia, manufactured homes displaying the certification label as prescribed in the federal standards shall be accepted in all localities as meeting the requirements of the Manufactured Housing Construction and Safety Standards Law (Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 of the Code of Virginia), which shall supersede the building codes of the counties, municipalities, and state agencies. In addition, as a requirement of this chapter, local code officials shall carry out the following functions with respect to manufactured homes displaying the HUD label, provided such functions do not involve disassembly of the homes or parts of the homes, change of design, or result in the imposition of more stringent conditions than those required by the federal regulations.~~

- ~~1. Verify through inspection that the manufactured home has not been damaged in transit to a degree that would render it unsafe. If the manufactured home has been damaged, then the local code official is authorized to require tests for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.~~
- ~~2. Verify through inspection that (i) supplemental components required by the manufacturer's installation instructions or this chapter are properly provided, (ii) manufacturer's installation or erection instructions are followed, and (iii) any special conditions or limitations of use stipulated by the manufacturer's installation instructions or the label in accordance with the standards or this chapter are followed.~~

~~B. Local code officials are required by the USBC to enforce applicable requirements of the USBC for utility connections, site preparation, foundations, stoops, decks, porches, alterations and additions to existing manufactured homes, building permits, skirting, certificates of use and occupancy, and all other applicable requirements, except those governing the design and construction of the labeled units. In addition, local code officials shall verify that a manufactured home displays the required HUD label.~~

13VAC5-95-40. Report to DHCD. (Repealed.)

~~Whenever any manufactured home is moved from a local jurisdiction before a noted violation has been corrected, the local code official shall make a prompt report of the circumstances to the administrator. The report shall include a list of uncorrected violations, all information pertinent to identification and manufacture of the home contained on the label and the data plate, the destination of the home if known, and the name of the party responsible for moving it.~~

13VAC5-95-50. Alterations.

~~A. No distributor, installer, or dealer shall perform or cause to be performed any alteration affecting one or more~~

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requirements set forth in the federal standards, ~~except those alterations approved by the administrator unless the alteration is included in the manufacturer's design approval primary inspection agency's approved design and installation instructions.~~

~~B. In handling and approving dealer requests for alterations, the administrator may be assisted by local code officials. The local code official shall report violations of subsection A of this section and failures to conform to the terms of their approval to the administrator. In accordance with § 36-99 of the Code of Virginia and the USBC, alterations, additions, and repairs associated with existing manufactured homes are subject to applicable provisions of the USBC and not this chapter.~~

13VAC5-95-60. Installations.

~~Distributors, installers, or dealers installing or setting up a manufactured home shall perform such installation in accordance with the manufacturer's installation instructions or other support and anchoring system approved by the local code official in accordance with the USBC.~~

13VAC5-95-70. Prohibited resale. (Repealed.)

~~No distributor or dealer shall offer for resale any manufactured home possessing a serious defect or imminent safety hazard.~~

13VAC5-95-80. Lot inspections.

At any time during regular business hours when a manufactured home is located on a dealer's or distributor's lot and offered for sale, the administrator shall have authority to inspect such home for transit damages, seal tampering, violations of the federal regulations and federal standards, and the dealer's or distributor's compliance with applicable state and federal laws law and regulations regulation. The administrator shall give written notice to the dealer or distributor when any home inspected does not comply with the federal regulations and federal standards or this chapter.

13VAC5-95-90. Consumer complaints; on-site inspections.

A. The administrator shall receive all consumer complaints on manufactured homes reported to DHCD by owners, dealers, distributors, ~~code~~ local building officials, and other state or federal agencies. The administrator may request ~~such reports~~ all consumer complaints to be submitted by letter or on a ~~report~~ form supplied by DHCD or in another format acceptable by the administrator.

B. The administrator may conduct, or cause to be conducted, an on-site inspection of a manufactured home at the request of the owner reporting a complaint with the home or under the following conditions with the permission of the owner of the home:

1. The dealer, distributor, or manufacturer requests an on-site inspection;
2. The reported complaint indicates extensive and serious noncompliances;

3. Consumer complaints lead the administrator to suspect that a class of homes may be similarly affected; or

4. Review of manufacturer's records, corrective action, and consumer complaint records leads the administrator to suspect secondary or associated noncompliances may also exist in a class of homes.

C. When conducting an on-site inspection of a home involving a consumer complaint, the administrator may request the dealer, distributor, and manufacturer of the home to have a representative present to coordinate the inspection and investigation of the consumer complaint.

D. After reviewing the complaint report or the on-site inspection of the home involved, the administrator shall, where possible, indicate the cause of any nonconformance and, where possible, indicate the responsibility of the manufacturer, dealer, distributor, or owner for the noncompliance and any corrective action necessary.

E. The administrator shall ~~refer to~~ notify the manufacturer of the home, in writing, of any consumer complaint concerning that home reported to the administrator. The administrator ~~may~~ shall refer any such reported complaint to HUD, to the SAA in the state where the manufacturer is located, and, as necessary, to the inspection agency involved with certifying the home.

F. The administrator shall assist the owner, dealer, distributor, installer, and manufacturer in resolving consumer complaints. ~~The administrator shall monitor the manufacturer's performance to assure compliance with Subpart I of the federal regulations for consumer complaint handling and shall take such actions as are necessary to assure compliance of all involved parties with applicable state and federal regulations.~~

G. The administrator shall monitor the manufacturer's performance to assure compliance with Subpart I (24 CFR 3282.401 et seq.) of the federal regulations for consumer complaint handling and shall take such actions as are necessary to ensure compliance of all involved parties with applicable state and federal regulation.

13VAC5-95-100. Violation; appeal; penalty.

~~A. Where the administrator finds any violation of the provisions of this chapter, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.~~

~~B. Parties aggrieved by the findings of the notice of violation may appeal to the State Building Code Technical Review Board, which shall act on the appeal in accordance with the provisions of the USBC. The aggrieved party shall file the appeal within 10 days of the receipt of the notice of violation. Unless the notice of violation is revoked by the review board, the aggrieved party must comply with the stipulations of the notice of violation.~~

C. Any person, firm or corporation violating any provisions of this chapter shall, upon conviction, be considered guilty of a misdemeanor in accordance with § 36-85.12 of the Code of Virginia. In accordance with § 36-85.12 of the Code of Virginia, it shall be unlawful for any person, firm, or corporation to violate any provisions of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 of the Code of Virginia, this chapter, or the Federal Act and regulations. Any person, firm, or corporation violating any provision of said laws, rules, and regulations, or any final order issued thereunder, shall be liable for a civil penalty not to exceed \$1,000 for each violation. Each violation shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or to perform an act required by the legislation or regulations. The maximum civil penalty may not exceed \$1 million for any related series of violations occurring within one year from the date of the first violation.

An individual or a director, officer, or agent of a corporation who knowingly and willfully violates Section 610 (42 USC § 5409) of the Federal Act in a manner that threatens the health or safety of any purchaser shall be deemed guilty of a Class 1 misdemeanor and upon conviction fined not more than \$1,000 or imprisoned not more than one year, or both.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (13VAC5-95)

[DHCD Manufactured Home Consumer Complaint Form \(eff. \[6/423\] 6/12\) \]](#)

VA.R. Doc. No. R13-3405; Filed July 18, 2014, 9:59 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Forms

REGISTRAR'S NOTICE: Forms used in administering the following regulation have been filed by the Department of Social Services. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

Title of Regulation: 22VAC40-675. Personnel Policies for Local Departments of Social Services.

Agency Contact: Linda Martin Warner, Policy Analyst, Division of Human Resources, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7803, FAX (804) 726-7027, or email linda.warner@dss.virginia.gov.

FORMS (22VAC40-675)

[Local Policy Request Form \(eff. 9/00\).](#)

[Self Analysis Audit for Deviations \(eff. 9/00\).](#)

[Human Resource Policy Record](#)

[Local Policy Request, Form 032-10-0161-05-eng \(rev. 3/14\)](#)

[Jurisdiction Wide Self-Analysis, Form 032-10-0165-02-eng \(rev. 1/14\)](#)

[Human Resource Policy Record, Form 032-10-0162-02-eng \(eff. 11/13\)](#)

VA.R. Doc. No. R14-4120; Filed July 18, 2014, 3:43 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

MOTOR VEHICLE DEALER BOARD

Final Regulation

REGISTRAR'S NOTICE: The Motor Vehicle Dealer Board is claiming an exclusion from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Motor Vehicle Dealer Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 24VAC22-20. Motor Vehicle Dealer Fees (amending 24VAC22-20-10, 24VAC22-20-20).

Statutory Authority: §§ 46.2-1503.4, 46.2-1506, 46.2-1519, and 46.2-1546 of the Code of Virginia.

Effective Date: September 10, 2014.

Agency Contact: Bruce Gould, Executive Director, Motor Vehicle Dealer Board, 2201 West Broad Street, Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, or email bruce.gould@mvdv.virginia.gov.

Summary:

Pursuant to Chapter 695 of the 2014 Acts of Assembly, which provides that the Motor Vehicle Dealer Board may administratively set fees rather than by regulation, the amendments remove language regulating fees, except for the fee for dealer license plates.

Regulations

24VAC22-20-10. Definitions.

The following words and terms when used in this chapter shall have the following ~~meaning~~ meanings unless the context clearly indicates otherwise:

"Dealer license plates" means license plates bearing a distinctive number, and the name of the Commonwealth, which may be abbreviated, together with the word "dealer" or a distinguishing symbol, indicating that the plate is issued to a manufacturer, distributor, or dealer, and further distinguishes franchised or independent dealers.

"Motor vehicle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or the same as provided in § 46.2-1500 of the Code of Virginia;
2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or
3. Offers to sell, sells, displays, or permits the display for sale of, five or more motor vehicles within any 12 consecutive months.

The term "motor vehicle dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.
2. Public officers, their deputies, assistants, or employees, while performing their official duties.
3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for their own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2 of the Code of Virginia.
4. Persons dealing solely in the sale and distribution of funeral vehicles, including motor vehicles adapted therefor; however, this exemption shall not exempt any person from the provisions of §§ 46.2-1519, 46.2-1520 and 46.2-1548 of the Code of Virginia.
5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States ~~which~~ that may have received title to a motor vehicle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary

reconveyance to that institution occurring as a result of any loan secured by a lien on the vehicle.

6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

7. Any person licensed to sell real estate who sells a mobile home or similar vehicle in conjunction with the sale of the parcel of land on which the mobile home or similar vehicle is located.

8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles for sale by any motor vehicle dealer licensed under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2 of the Code of Virginia.

9. An insurance company authorized to do business in the Commonwealth that sells or disposes of vehicles under a contract with its insured in the regular course of business.

10. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of vehicles owned by others.

11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motor vehicle dealer.

13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia.

14. The Virginia Department of Social Services or local departments of social services.

~~"Motor vehicle salesperson" means (i) any person who is hired as an employee by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission, fee or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles.~~

~~"Supplemental license" means a license issued by the Motor Vehicle Dealer Board for a licensed motor vehicle dealer to display for sale or sell vehicles at locations other than his established place of business, subject to compliance with local ordinances and requirements.~~

24VAC22-20-20. Fees.

~~A. License fees. All license fees, except initial license fees, are nonrefundable. Annual fees for licenses are as follows:~~

Motor Vehicle Dealer License	\$200
Permanent Supplemental License	\$40
Temporary Supplemental License (Valid for 7 days)	\$40 (per 7 day license)
Motor Vehicle Dealer Salesperson License	\$25

~~B. Application for certificate of qualification fees. Application fees for certificates of qualification are nonrefundable. The fees, which are due prior to taking the certificate of qualification examination, are as follows:~~

Dealer Operator Certificate of Qualification:	\$50
Salesperson Certificate of Qualification:	\$50
Combined Dealer Operator and Salesperson Certificates of Qualification:	\$50

~~C. Dealer license plate fees. Fees for dealer license plates are nonrefundable. Annual fees for dealer license plates are as follows:~~

First two plates	\$30 each
Third and subsequent plates	\$26

All renewal fees are due to the Motor Vehicle Dealer Board on the last day of the expiration month and shall be considered filed on time if postmarked prior to the expiration date.

VA.R. Doc. No. R14-4069; Filed July 10, 2014, 11:37 a.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 20 (2014)

Advancing Equity for Small, Women and Minority Owned Businesses

Importance of the Issue

It is imperative for the Commonwealth of Virginia to maximize the participation of small businesses in state contractual work. For Virginia to remain competitive and continue to advance its small business goals, significant work still must be done for a more transparent, equitable, and inclusive process. Therefore, I am establishing a micro business designation within the small business certification and vital new state procurement initiatives.

For purposes of this Executive Order: 1) "executive branch agency" shall include all entities in the executive branch, including agencies, authorities, commissions, departments, and all institutions of higher education; 2) "small businesses" shall include, but not be limited to, small, women-owned or minority-owned businesses; and, 3) "micro businesses" shall be defined as those certified small businesses that have no more than twenty-five (25) employees and no more than \$3 million in average annual revenue over the three-year period prior to their certification.

I am directing the following executive branch agencies that have statutory authority for procurement, in conjunction with the Department of Small Business and Supplier Diversity (DSBSD) as provided in Code of Virginia § 2.2-1605(A)(6), to implement the requirements herein within their respective areas of procurement authority: Department of General Services (DGS), Virginia Information Technologies Agency (VITA), Virginia Department of Transportation (VDOT), those institutions of higher education that have autonomy in procurement granted under the Restructured Higher Education Financial and Administrative Operations Act (Code of Virginia § 23-38.88, et seq.), and other executive branch agencies that have statutory authority for procurement.

Initiatives

With a continuing rational basis for small business enhancement, and pursuant to the authority vested in me as Governor under Article V of the Constitution of Virginia, the Code of Virginia, including Code of Virginia § 2.2-4310(C), and applicable Memoranda of Understanding and Management Agreements entered into pursuant to Code of Virginia § 23-38.88, et seq., I hereby direct my Cabinet Secretaries and all executive branch agencies to continue and advance the following on a race-neutral and gender-neutral basis:

1. Exceed a target goal of 42%, which is the highest percentage of expenditures spent since FY 2004 for executive branch agencies with small businesses certified by DSBSD. This percentage applies to discretionary spending in categories from which the Commonwealth

derives procurement orders, prime contracts, and subcontracts. DSBSD, in consultation with executive branch entities and institutions with procurement responsibilities, shall advance race-neutral and gender-neutral goals via annual agency Small, Women-owned, and Minority-owned (SWaM) procurement plans. Each executive branch agency shall review and update its benchmarks, policies, and procedures to conform with this Executive Order and the implementing regulations adopted pursuant to Code of Virginia § 2.2-1605(A)(6) and thereby ensure that a greater percentage of purchases is made from certified small businesses, in goods and services categories from which the Commonwealth makes its purchases.

2. Create the micro business designation, which shall include those certified small businesses that have no more than twenty-five (25) employees and no more than \$3 million in average annual revenue over the three-year period prior to their certification. DSBSD shall develop a best practices method for identifying those small businesses that are eligible for the micro business designation. DSBSD shall also evaluate and offer recommendations for the implementation of the micro business designation by October 1, 2014.

3. Expand the set-aside for competition among all certified small businesses to include purchases up to \$100,000 for goods and nonprofessional services and up to \$50,000 for professional services when the price quoted is fair and reasonable. In the procurement selection process for these set-asides, at least one of the proposals/bids shall be obtained from a micro business unless upon due diligence no micro business in a particular category exists or was willing to submit a proposal/bid. Purchases under \$10,000, however, shall be set aside for micro businesses when the price quoted is fair and reasonable. Executive branch agencies that have statutory authority for procurement shall include these set-asides in their purchasing regulations, policies, and processes by no later than September 1, 2014. Current contracts will continue in accordance with their terms. The DSBSD will prepare a progress report describing executive branch agencies' compliance with this requirement and deliver its report to the Governor's Chief of Staff no later than October 1, 2014.

4. Provide support to DSBSD in developing a uniform, statewide method for evaluating and monitoring small business (SWaM) procurement plans. Executive branch agencies shall require each prime contractor to include in its proposal(s)/bid(s) a SWaM procurement plan.

Before final payment is made, the purchasing agency shall confirm that the contractor has certified compliance with the contract's SWaM procurement plan. If there are any variances between the contractor's required SWaM procurement plan and the actual participation, the contractor shall provide a written explanation. The written

explanation shall be kept with the contract file and made available upon request.

Contracts and renewals may include a provision allowing final payment to be withheld until the contractor is in compliance with its SWaM procurement plan. Prior to entering into a new contract or renewing a contract with a contractor, an agency shall review a contractor's record of compliance with SWaM procurement plan requirements. A contractor's failure to satisfactorily meet designated SWaM procurement plan requirements shall be considered in the prospective award or renewal of any future contracts with the contractor.

5. Implement processes for producing SWaM subcontracting data as established by DSBSD in consultation with DGS and VITA. This subcontracting data must also include information on non-SWaM subcontractors performing on contracts over \$200,000.

These initiatives will spur creativity, promote economic justice and development, and encourage procurement participation by small businesses. In support of the initiatives set out above, I further direct the following actions to be taken by Cabinet Secretaries and executive branch agencies:

1. DSBSD, in conjunction with DGS, VITA, VDOT, and higher education institutions with procurement autonomy, shall implement initiatives to enhance the development of small businesses in Virginia. Such initiatives shall include, but not be limited to:

- Information on access to capital, including contract financing and bonding support and other opportunities for economic development;
- Management and technical assistance programs;
- Partnerships and outreach with local business groups, chambers of commerce, and other organizations to develop a diverse vendor base; and,
- Statewide mentor/protégé and/or joint venture programs.

2. DSBSD, with assistance from DGS, shall conduct a vendor outreach training program for each congressional district in the Commonwealth. Training shall include instructions on how to obtain certification, register with and research through the Commonwealth's e-procurement system (eVA), respond to business opportunities with the Commonwealth, encourage SWaM participation, and overcome identified barriers.

3. Executive branch agencies shall review the efficacy of implementing other small business enhancement tools and processes, such as:

- Unbundling contracts;

- Relaxing the requirement for mandatory attendance at pre-bid meetings;

- Expanding time to respond to small purchase solicitations;

- Alerting businesses to current and future procurement as well as subcontracting opportunities; and,

- Streamlining the paperwork required of small businesses.

4. The purchasing manuals, regulations and guidelines of all executive branch entities and institutions shall include updated SWaM purchasing regulations and/or guidelines to reflect the changes made in this Executive Order.

5. Executive branch agencies shall actively recruit small businesses to seek certification from DSBSD, to register on eVA, and to compete for state procurement contracts. DGS and VITA shall develop guidelines that promote greater representation of SWaM businesses on such contracts.

6. VDOT, for road and bridge construction, and DGS, for construction, shall develop guidelines to be used by executive branch agencies in making construction mobilization payments to businesses when reasonable and necessary to facilitate contract initiation.

7. The Virginia Economic Development Partnership (VEDP) shall send DSBSD its regular report to the Secretary of Commerce and Trade on new economic development announcements of business activity in the Commonwealth, inclusive of those announcements in which a VEDP administered economic incentive is provided. Such report will enable DSBSD to ascertain in a timely manner what opportunities the activity may bring for Virginia's small businesses.

8. Every executive branch agency shall utilize the Commonwealth's central electronic procurement system ("eVA") as its purchasing and/or posting system beginning at the point of requisitioning for all procurement actions, including but not limited to technology, transportation, and construction, for the purpose of identifying available small businesses, and for tracking purchase requisition details from those businesses. DGS, in consultation with VDOT, shall develop guidelines pertaining to the content of requisitions, in order for data to be captured in a timely, accurate, and consistent manner.

9. Each executive branch agency shall designate a SWaM equity champion to ensure equity in the solicitation of procurement proposals/bids and awarding of contracts.

10. Agency heads, senior managers with procurement responsibility, procurement personnel, and end users with purchasing charge cards shall be evaluated on small business purchasing goals as part of their employee evaluations.

Governor

11. DSBSD shall coordinate with the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Association of Governmental Purchasing to identify opportunities for state and local government entities to collaborate in order to maximize procurement equity for small businesses.

Reporting Requirements

1. The Secretary of Commerce and Trade shall study the potential advantages of providing start-up incentives, including federally-funded grants, to certified small businesses. This shall include a review of the economic impact of providing the incentives and whether such incentives would promote the profitability and sustainability of such businesses. The Secretary of Commerce and Trade shall provide a report to the Governor's Chief of Staff by no later than December 1, 2014.

2. Cabinet Secretaries shall monitor their agencies' spending with all certified small businesses, and report on the results quarterly. DSBSD shall develop a standard reporting format for such purposes. The report shall include information on purchases made from all certified small businesses. In addition, the Secretary of Commerce and Trade will assess overall state performance, and report quarterly to the Governor.

Each Cabinet Secretary shall evaluate the performance of their agencies in implementing these directives. DSBSD, in cooperation with each Cabinet Secretary, shall provide quarterly reports to the Secretary of Commerce and Trade regarding the Commonwealth's progress in enhancing opportunities for SWaM businesses. The reports shall delineate the Commonwealth's spending in detail by SWaM category and agency.

3. The Secretary of Commerce and Trade shall conduct a study on a new small business designation, with prospective set-aside opportunities, that would be between twenty-five (25) and one hundred (100) employees and between \$3 and \$10 million. The study shall be delivered to the Governor's Chief of Staff no later than December 1, 2014.

4. Executive branch entities and institutions with procurement responsibilities shall review practices, procedures, and proposal evaluations criteria to identify and remove barriers or limitations to SWaM participation. A section on "barriers or limitations" shall be included in annual agency SWaM plans. SWaM plans shall be developed and submitted to the Secretary of Commerce and Trade on September 1 of each fiscal year.

5. The Secretary of Commerce and Trade will prepare and deliver a report to the Governor no later than October 1, 2015, detailing compliance with this Executive Order and

providing spend performance metrics from the prior fiscal year.

Effective Date of this Order

This Executive Order replaces Executive Order 33 (2006), issued by Governor Timothy M. Kaine, and shall be effective upon its signing and shall remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 22nd day of July, 2014.

/s/ Terence R. McAuliffe
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services is currently reviewing each of the regulations listed below to determine whether it should be repealed, amended, or retained in its current form. The review of each regulation will be guided by the principles in Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia. Public comment is sought on the review of any issue relating to the regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

2VAC5-30, Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia

2VAC5-40, Rules and Regulations Governing the Prevention, Control and Eradication of Bovine Tuberculosis in Virginia

2VAC5-50, Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia

2VAC5-90, Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia

Agency Contact: Dr. Charles Broaddus, Office of Veterinary Services Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560, FAX (804) 371-2380, or email charles.broaddus@vdacs.virginia.gov.

2VAC5-150, Rules and Regulations Governing the Transportation of Companion Animals

Agency Contact: Dr. Dan Kovich, Office of Animal Care and Health Policy Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-2483, FAX (804) 371-2380, or email dan.kovich@vdacs.virginia.gov.

2VAC5-310, Rules and Regulations-Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law

Agency Contact: Dennis Clary, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1933, FAX (804) 371-7785, or email dennis.clary@vdacs.virginia.gov.

2VAC5-531, Regulations Governing Milk for Manufacturing Purposes

Agency Contact: Carolyn Peterson, Program Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1452, FAX (804) 371-7792, or email carolyn.peterson@vdacs.virginia.gov.

2VAC5-590, Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef

Agency Contact: Ryan Davis, Office of Dairy and Foods Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, or email ryan.davis@vdacs.virginia.gov.

2VAC5-670, Rules and Regulations for Enforcement of the Virginia Pesticide Law

2VAC5-680, Regulations Governing Licensing of Pesticide Businesses Operating under Authority of the Virginia Pesticide Control Act

Agency Contact: Andres Alvarez, Director of the Division of Consumer Protection, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 225-3821, FAX (804) 371-7479, or email andres.alvarez@vdacs.virginia.gov.

The comment period begins August 11, 2014, and ends September 1, 2014.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to the agency contacts listed above.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality is conducting a periodic review and small business impact review of **9VAC15-40, Small Renewable Energy Projects (Wind) Permit by Rule**.

The review of this regulation will be guided by the principles in Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia.

General Notices/Errata

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins August 11, 2014, and ends September 2, 2014.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email mary.major@deq.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

VIRGINIA SAFETY AND HEALTH CODES BOARD

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Safety and Health Codes Board conducted a small business impact review of **16VAC25-145, Safety Standards for Fall Protection in Steel Erection, Construction Industry**, and determined that this regulation should be retained in its current form. The Virginia Safety and Health Codes Board is publishing its report of findings dated July 22, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

There is a continuing need for this regulation because it helps to prevent injuries and fatalities due to falls during steel erection in construction industry workplaces. No public comments were received on this regulation during the public comment period. This regulation is not overly complex. The regulation does not overlap, duplicate, or conflict with any federal or state law or regulations. There have not been any significant changes in technology, economic conditions, or other factors in the area affected by this regulation since the last periodic review in 2010. The department has determined, consistent with the stated objectives of applicable law, that this regulation does not have an adverse economic impact on small businesses and that this regulation should be retained with no changes.

Contact Information: Reba O'Connor, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 786-8418, or email oconnor.reba@dol.gov.

STATE WATER CONTROL BOARD

Proposed Consent Special Order for Green Zone Investments, LLC

An enforcement action has been proposed for the Green Zone Investments LLC for alleged violations that occurred at Tire Recyclers, Inc. located in Charles City County, Virginia. The State Water Control Board proposes to issue a consent special order to Green Zone Investments, Inc. to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Cynthia Akers will accept comments by email at cynthia.akers@deq.virginia.gov, FAX at (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from August 11, 2014, to September 10, 2014.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/connect/commonwealth-calendar>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.