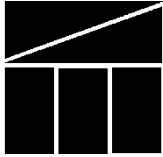


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

12 VAC 5-421 Food Regulations
Virginia Department of Health
Town Hall Action/Stage: 5240 / 8561
May 3, 2019

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 674 of the 2018 Acts of Assembly, the State Board of Health (Board) proposes to amend the Food Regulations to allow food establishments within the Commonwealth to receive for sale or service, commercially slaughtered or processed rabbits not under a voluntary inspection.

Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact

Under the current regulation, rabbits that are received for sale or service must be commercially raised for food and raised, slaughtered, and processed under a voluntary inspection program that is conducted by the state agency that has animal health jurisdiction or under a voluntary inspection program administered by the USDA. In the Virginia Department of Agriculture and Consumer Services' (VDACS) Voluntary Inspection Program, the processor is inspected every time they slaughter, which can be many times a year. Chapter 674 of the 2018 Acts of Assembly amended Virginia Code § 3.2-5121 to state that no regulation may require that

¹ Adverse impact is indicated if there is any increase in cost for any entity, even if the benefits exceed the costs.

commercially slaughtered or processed rabbits that are offered for sale or service be slaughtered or processed under (i) the voluntary inspection program that is conducted by the state agency that has animal health jurisdiction or (ii) a voluntary inspection program that is administered by the U.S. Department of Agriculture. Thus, the current regulation conflicts with the current statute. In order to remove the conflict, the Board proposes to amend the regulation to no longer require that rabbits that are received for sale or service be processed under a voluntary inspection program.

After Chapter 674 of the 2018 Acts of Assembly was enacted, VDACS initiated the Virginia Rabbit Program. It allows those who wish to slaughter rabbits for sale in the Commonwealth to do so without being inspected every time rabbits are slaughtered, as is done with the Voluntary Inspection Program. Processors that slaughter rabbits in Virginia now have the option of complying with the requirements of the Virginia Rabbit Program, conducted in accordance with the Virginia Food Laws, or to continue with the Voluntary Inspection Program. In the Virginia Rabbit Program, inspections are conducted prior to initial operations of the processor, and randomly thereafter, no less than annually. The same staff at VDACS conduct the inspections under both the Voluntary Inspection Program and the Virginia Rabbit Program.

Under the Voluntary Inspection Program, VDACS charges the processor \$28.06 per hour of inspection and travel time between the processor site and the applicable regional health department office. VDACS has provided an example where they spent 1.25 hours inspecting at a processor, and their travel time was three hours. Thus, they charged the processor \$119.26² for that day of inspecting. For every day of slaughter, there would be such an inspection charge. Under the Virginia Rabbit Program, after initiating operations rabbit processors are only inspected once a year (though possibly slightly more) and charged just \$40 a year regardless of how often they are inspected.

Clearly, being inspected under the Virginia Rabbit Program rather than the Voluntary Inspection Program reduces financial outlay for rabbit processors. Since there are far fewer inspections under the Virginia Rabbit Program there may be greater risk to health and safety. Information is currently unavailable as to whether the increase of risk is large, negligible, or

² $1.25 + 3 = 4.25$; $\$28.06 \times 4.25 = \119.26

somewhere in between. Without this information, an accurate comparison of whether or not the benefits of the reduced burden to processors outweigh the potential increase in risk to health and safety cannot be made.

There are currently four rabbit meat processors in the Commonwealth. According to the Virginia Department of Health, three out of the four have chosen to continue with the voluntary inspection program, while one has chosen to be inspected under the Virginia Rabbit Program. The three processors that have chosen to continue with the voluntary inspection program have likely made that choice due to other states and jurisdictions not accepting rabbit meat that has not been inspected under a federally approved voluntary inspection program.

Businesses and Entities Affected

The proposed amendment potentially affects the four rabbit meat processors in the Commonwealth, as well as permitted food establishments. As of October 10, 2018, there were 29,200 permitted food establishments in Virginia; it is unknown how many are selling or serving rabbit.³

Localities Particularly Affected

The proposed amendment does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendment is unlikely to significantly affect total employment.

Effects on the Use and Value of Private Property

The proposed amendment reduces costs for rabbit meat processors who choose to take advantage of the new inspection option. The reduced cost would commensurately increase the value of the business.

Real Estate Development Costs

The proposed amendment does not affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and

³ Data source: Virginia Department of Health

(ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

The proposed amendment reduces costs for small rabbit meat processors who choose to take advantage of the new inspection option.

Alternative Method that Minimizes Adverse Impact

The proposed amendment does not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendment does not adversely affect businesses.

Localities:

The proposed amendment does not adversely affect localities.

Other Entities:

The proposed amendment does not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.