



COMMONWEALTH of VIRGINIA

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THROUGH: Julie Henderson, Director
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FROM: Olivia McCormick, Director
Division of Food and General Environmental Services

AUTHORITY: Title 35.1 of the Code of Virginia: Hotels, Restaurants, Summer Camps, and Campgrounds, 12 VAC5-421-3810

SUBJECT: Risk-Based Inspection Frequency for Food Establishments

PURPOSE:

This Guidance Document will prescribe the process to designate a food establishment to one of four inspection frequency categories based on a Risk Categorization Assessment. **12VAC5-421-3810**; *Performance-based and risk-based inspections*, requires the department to prioritize the frequency of inspection upon its assessment of a food establishment's compliance history and potential to cause foodborne illness.

At the time of permit issuance, the frequency of inspection performed by the Health Department shall be determined based on the categorization of the food establishment as: "Risk Category 1", "Risk Category 2", "Risk Category 3", or "Risk Category 4". Factors such as an excellent compliance history with Food Code provisions related to foodborne illness risk factors in a food establishment and the type of HACCP food processes in an establishment serving a highly

susceptible population may justify an increase or decrease in inspection frequency as outlined below. The Risk Categorization should be reviewed and updated as often as needed, including during annual permit issuance and when there are changes to the menu.

Definitions:

12VAC5-421 provides definitions of the following terms and phrases as used in this document.

“Food Establishment”

“Highly Susceptible Population”

“Priority Foundation Item”

“Priority Item”

“Risk”

“Time/Temperature Control for Safety Food” or “TCS Food”

The following terms and phrases as defined below are used in this document.

“Active Managerial Control (AMC)” is the purposeful incorporation of specific actions or procedures by industry management into the operation of their business to attain control over foodborne illness risk factors.

“Frequency Inspection” means a regulatory inspection of a food establishment that counts towards the frequency required by the food establishment’s risk category as determined by this policy. Frequency inspections include both traditional routine inspections (which evaluate risk factors, public health interventions, and good retail practices), risk factor inspections (which evaluate just risk factors and public health interventions), and training inspections (routine or risk factor inspections conducted for the purposes of training staff *or* inspections focusing on imparting specific food safety knowledge to facility staff). Frequency inspections do not include follow-up inspections, complaint inspections, or pre-opening inspections. Temporary event inspections do not count as frequency inspections for a brick-and-mortar facility.

“Risk Factors” means practices or procedures identified as the most prevalent contributing factors of foodborne illness or injury.

“Recent Inspection History” means the most recent inspection and any others conducted in the previous 12 months.

“Violation” means any alleged violation of the Regulations observed and documented during any inspection that is either 1.) not challenged by the permit holder in informal or formal proceedings, or 2.) has been challenged by the permit holder in informal or formal proceedings and upheld as a valid observation.

Background:

The Food Regulations (12VAC5-421 et seq.; hereinafter referred to as “Regulations”), establish minimum health and safety standards for the operation of food establishments, including restaurants, hospitals, schools, temporary food establishments, and any other place where food is prepared or served to the public. Such standards include the frequency in which the Virginia Department of Health (VDH) inspects food establishments.

The occurrence of foodborne illness risk factors in a foodservice establishment may be associated with attributes such as the types of food served, the extent of food preparation processes, and the nature of population being served. The evaluation of these attributes should be conducted by the Health Department not only at the time of issuance of the permit but also when there is a change in the food service operation, such as a change in the menu. Creating an inspection frequency based on this evaluation of the operation allows inspection staff to spend proportionally more time in high-risk establishments that pose the greatest potential risk of causing foodborne illness.

Policy:

Prior to the issuance or renewal of a permit, or at any time changes in operation are noted that necessitate risk re-evaluation, staff shall determine the appropriate risk categorization and inspection schedule using three steps:

1. Staff shall compare the risk of the type of food preparation and the population served to the descriptions in Table 1.
2. Staff shall determine whether a facility has one of the two types of compliance history outlined below. Note that it is possible for an establishment to have neither an excellent nor unsatisfactory compliance history.
3. Staff shall adjust the risk categorization of the facility as needed and shall ensure the risk categorization is properly captured in the environmental health database.

Excellent Compliance History

Facilities may be determined to have an excellent compliance history and thus be eligible for a decrease in inspection frequency when they meet the criteria below:

1. The **Recent Inspection History** demonstrates **Active Managerial Control** is in place through the absence of a **Priority Violation**, AND
2. The **Recent Inspection History** does not contain a food safety complaint found to be valid, AND
3. There is no **Violation** connected to a failure to follow HACCP plan requirements that are **Priority** or **Priority Foundation** items in the previous year, AND
4. There have been no suspected or confirmed foodborne outbreaks (not including those related to a contaminated product or other contributing factor outside of the control of the food establishment) in the establishment in the previous 3 years.

Unsatisfactory Compliance History

Facilities shall be determined to have an unsatisfactory compliance history and shall thus receive an increase in inspection frequency if any of the following apply:

1. The **Recent Inspection History** includes more than 3 **Priority Violations** in any one inspection, OR
2. The **Recent Inspection History** includes repeat or reoccurring **Priority** or **Priority Foundation Violation** items in two or more inspections, OR

3. The **Recent Inspection History** includes a complaint found to be valid connected to a **Priority** or **Priority Foundation Violation**, OR
4. There is a **Violation** connected to a failure to follow HACCP plan requirements that are **Priority** or **Priority Foundation Violation** items, OR
5. There has been a suspected or confirmed foodborne outbreak related to a contributing factor under the control of the food establishment in the past 3 years.

Table 1 - Risk Categorization and Inspection Frequency of Food Establishment (adapted from Food and Drug Administration Model Food Code)

RISK CATE-GORY	DESCRIPTION	INSPECTION FREQUENCY (#MONTHS)
1	<p><i>Food Preparation Process 1: Food Preparation with No Cook Step: Receive-Store-Prepare-Hold-Serve</i></p> <p style="text-align: center;">Examples include:</p> <ul style="list-style-type: none"> • Most convenience store operations, hot dog carts, and coffee shops. • Service or sale of only pre-packaged, non-time/temperature control for safety (TCS) foods. • Preparation of only non-TCS foods. • Establishments that heat only commercially processed, TCS foods for hot holding and/or immediate service. No cooling (including ambient cooling) of TCS foods. • Establishments meeting the food preparation description for Risk Category 2 facilities with an excellent compliance history. 	12*
2	<p><i>Food Preparation Process 2: Food Preparation for Same Day Service: Receive-store-prepare-cook-hold-serve; ambient cooling allowed</i></p> <p style="text-align: center;">Examples include:</p> <ul style="list-style-type: none"> • Retail food store operations • Schools not serving a highly susceptible population, and quick service operations. • Establishments with a limited menu; most products are prepared/cooked and served immediately. • Preparation may involve hot and cold holding of TCS foods after preparation or cooking. • Complex preparation of TCS foods requiring cooking, cooling, and reheating for hot holding is limited to only a few TCS foods. • Establishments meeting the food preparation description for Risk Category 3 facilities with an excellent compliance history. • Establishments meeting the food preparation description for Risk Category 1 facilities with an unsatisfactory compliance history. 	6

* Per § 35.1-22. No establishment may go more than 12 months between inspections

<p style="text-align: center;">3</p>	<p style="text-align: center;"><i>Food Preparation Process 3: Complex Food Preparation: Receive-store-prepare-cook-cool-reheat-hot hold-serve</i></p> <p style="text-align: center;">Examples include:</p> <ul style="list-style-type: none"> • A full-service restaurant with extensive menu and extensive handling of raw ingredients. • Complex preparation including cooking, cooling, and reheating for hot holding involves many TCS foods. • Variety of processes require hot and cold holding of TCS food. • Establishments meeting the food preparation description for Risk Category 4 facilities with an excellent compliance history. • Establishments meeting the food preparation description for Risk Category 2 facilities with an unsatisfactory compliance history. 	<p style="text-align: center;">4</p>
<p style="text-align: center;">4</p>	<p style="text-align: center;">Examples include:</p> <ul style="list-style-type: none"> • Preschools, hospitals, nursing homes, and establishments conducting specialized processes at retail. • Establishments serving a highly susceptible population (with exception; childcare/ child custodial facilities that only reheat commercially processed, ready to eat TCS food for immediate service should be categorized as Risk Category 2) • Establishments that conduct a specialized process, e.g. smoking and curing; reduced oxygen packaging for extended shelf-life • Establishments meeting the food preparation description for Risk Category 3 facilities with an unsatisfactory compliance history. 	<p style="text-align: center;">3</p>