

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): Yes 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: 5147 / 8411
December 14, 2018

Summary of the Proposed Amendments to Regulation

The State Board of Health (Board) proposes to replace a reference to its internal document for procedures, certification, and standardization of retail food inspections with the updated 2017 version.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The current regulation incorporates by reference an internal document for procedures, certification, and standardization of retail food inspections created for food inspection staff to follow and to be trained. The Board proposes to update the reference from 2014 version of that document to 2017 version. According to the Virginia Department of Health (VDH), the 2017 document incorporates changes adopted from the Food and Drug Administration (FDA) Procedures for Standardization of Retail Food Safety Officers (2015 FDA Standard) and the 2013 FDA Food Code. For example, the new document incorporates the procedures for new federal rules about certified food protection manager, clean-up of vomiting and diarrheal events, using a non-continuous cooking process for raw animal foods, etc. These updates in the document are not expected to create any compliance costs as they are already implemented under

the federal authority. However, the proposed amendments are beneficial in that the new document incorporates procedures for new federal requirements for training and enforcement of the existing rules.

One of the changes in the document establishes a new requirement for one-time training course, “Environmental Assessment of Foodborne Illness Outbreaks”, for certificates that expire January 1, 2018 and thereafter. This course addresses the role of environmental assessments within the broader context of outbreak investigations and the food safety system. According to VDH, the skills needed to participate in an outbreak investigation are different from those needed to inspect restaurants and the role of environmental health staff is critical. The course is designed specifically for environmental health professionals and food safety program officials in government agencies, as well as those from scientific, industry, and consumer groups. It focuses on practice of critical skills through simulated exercises, such as interviewing food workers and conducting an environmental assessment of a restaurant implicated in an outbreak; how to investigate foodborne illness outbreaks as a member of a larger outbreak response team; how to identify an outbreak’s environmental causes; and what to recommend as appropriate control measures. As of December 14, 2018, 208 staff members have not completed the course. The new training course requirement would require VDH to devote some of its existing resources to offer it online and require inspection staff’s time (8-10 hours) to take it. This course would likely improve inspection staff’s ability to assess and respond to foodborne illness outbreaks.

Businesses and Entities Affected

This regulation pertains to approximately 230 local health department staff and 37 district standardization officers in Virginia.

Localities Particularly Affected

The proposed amendments would not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments would not affect employment.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use and value of private property.

Real Estate Development Costs

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

Costs and Other Effects

The proposed amendments would not have costs or other effects on small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments would not impose adverse impacts on small businesses.

Adverse Impacts:**Businesses:**

The proposed amendments would not impose adverse impacts on businesses.

Localities:

The proposed amendments would not adversely affect localities.

Other Entities:

The new training course requirement would require VDH to devote resources to offer it and require inspection staff’s time to take it.

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.