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## Periodic Review Report of Findings

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC5-421
<b>Regulation title</b>	Food Regulations
<b>Date this document prepared</b>	July 16, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

No acronyms or technical terms were identified that were not included in the "Definitions" section of the regulations.

## Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

Sections 35.1-11 and 14 of the Code of Virginia (Code) authorizes and requires the State Board of Health (Board) to promulgate and enforce regulations governing restaurants in accordance with the provisions of Title 35.1 of the Code.

### Alternatives

*Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

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There are no viable alternatives to the purpose of the regulation, which is to ensure restaurants in the Commonwealth meet regulatory standards as it relates to food safety. The regulations are mandated under law and are administered in the least burdensome method.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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No public comments were received.

### Effectiveness

*Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

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The Food Regulations (12VAC5-421 et seq.) meet the criteria set forth in Executive Order 14 (as amended, July 16, 2018). The regulation is necessary to protect public health, safety and welfare as it is needed to safeguard consumers from food borne illness. The Food Regulations are clearly written and easily understandable.

### Decision

*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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Virginia Department of Health (VDH) will amend the Food Regulations through the issuance of a Notice of Intended Regulatory Action. The regulations will be amended to address statutory concerns raised by the Office of the Attorney General in its letter of certification dated June 17, 2019 to align the regulations with the 2017 Food and Drug Administration Food Code (Food Code) and the Annex to the 2017 Food Code. The Food Code is a model regulatory document that represents the current science and knowledge available as it relates to preventive controls to reduce the risks of foodborne illness within restaurants.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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- 1) Sections 35.1-11 and 14 of the Code authorizes and requires the Board to promulgate and enforce regulations governing restaurants in accordance with the provisions of Title 35.1 of the Code. The need for regulatory oversight is codified and not discretionary.
- 2) No complaints or comments were received during the public comment period.
- 3) The Food Regulations are clearly written and easily understandable.
- 4) The Food Regulations do not overlap, duplicate, or conflict with state or federal law.
- 5) The Board completed a comprehensive amendment of the Food Regulations, which incorporated the 2013 FDA Food Code, in July of 2016.