

BOARD OF AGRICULTURE AND CONSUMER SERVICES
Electronic meeting held during state of emergency due to novel coronavirus
(COVID-19)
Thursday, May 21, 2020

AGENDA

9 A.M.

1. Call to order
2. Roll call
3. Approval of draft Board meeting minutes from December 12, 2019
4. Election of officers
5. Board member reports
6. Commissioner's Report to Board
7. Proposed fast-track action to amend 2 VAC 5-585 (Retail Food Establishment Regulations) – Ryan Davis, Program Manager, Office of Dairy and Foods
8. Public comment period
9. Adjourn

PUBLIC PARTICIPATION

Members of the public may listen to the meeting via the Cisco WebEx platform using the link, access code, and password below.

Event address for attendee:

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=e42a10b7c39cfe6e9fe432914c52b2307>

Event number (access code): 610 894 269

Event password: QiqwUttP823

To join the audio conference only:

Call the number below and enter the access code.

+1-517-466-2023 US Toll

+1-866-692-4530 US Toll Free

If you would like to comment during the public comment portion of the meeting, please sign up to do so using the WebEx Q&A feature. Via the Q&A feature, send the Meeting Host your first and last name as well as the name of the organization, if any, on whose behalf you will be commenting (e.g., Joe Smith with ABC Organization). If you join the meeting using the audio conference only or are unable to locate the WebEx Q&A feature to sign up for the public comment portion of the meeting, please email your first and last name as well as the name of the organization, if any, on whose behalf you will be commenting to Erin.Williams@vdacs.virginia.gov. During the public comment portion of the meeting, the Meeting Host will unmute your microphone and announce that it is your turn to comment. Please minimize the background noise at your location.

Should any interruption of the broadcast of this meeting occur, please call 804-363-9201 or email Erin.Williams@vdacs.virginia.gov to notify the agency. Any interruption in the broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

FINAL MINUTES
Oliver Hill Building
102 Governor Street, Room 220
Richmond, VA 23219
Thursday, December 12, 2019

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9:08 a.m. on Thursday, December 12, 2019, at the Oliver Hill Building in Richmond, Virginia. President Barlow called the meeting to order. At the President's request, Mr. Kirby gave the invocation.

ROLL CALL

The Board Secretary called the roll:

PRESENT

O. Bryan Taliaferro, Jr.
Clifton A. Slade
Shelley Barlow
Cecil Shell
Margaret Ann Smith
L. Wayne Kirby
Kay Johnson Smith
John R. Marker
Richard Sellers
Neil Houff
Kevin J. Kordek
Lonnie Johnson

Dr. M. Ray McKinnie

CONGRESSIONAL DISTRICT

1st
3rd
4th
5th
6th
7th
8th
10th
11th
Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
Representing Dr. Timothy D. Sands, President,
Virginia Tech
Representing Dr. Makola Abdullah, President,
Virginia State University

ABSENT

Donald Horsley
James S. Huffard, III

2nd
9th

STAFF PRESENT

Jewel Bronaugh, Commissioner, Virginia Department of Agriculture and Consumer Services
Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services
Katherine Coates, Virginia Department of Agriculture and Consumer Services

APPROVAL OF MINUTES

Mr. Marker moved that the draft minutes of the meeting on July 23, 2019, be approved as distributed. Mr. Sellers seconded the motion, and it was passed by a unanimous vote.

REPORT FROM BOARD MEMBERS

Lonnie Johnson

Mr. Johnson reported that the Virginia Agricultural Experiment Station and Virginia Cooperative Extension (VCE) have made their largest-ever budget request to the Governor and the General Assembly this year. It was a bold ask of over \$11 million for each year of the biennium. Approximately half of the funds would be used to support increases in VCE agent salaries to help with retention and to assist with recruitment for the vacancies across the state at VCE offices and research centers. The remaining funds would be used to upgrade to more modern technology at the research centers to give staff the ability to do meaningful research for the Commonwealth.

Dr. M. Ray McKinnie

Dr. McKinnie reported that Virginia State University is preparing for its fall commencement, which will take place on December 14. The commencement speaker will be Harry Williams, the President and CEO of the Thurgood Marshall College Fund. Other university priorities include building construction on campus and putting in for matching funds for the College of Agriculture.

Richard Sellers

Mr. Sellers reported that he has been working on behalf of urban agriculture at the request of Commissioner Bronaugh. He contacted economic development staff with the Fairfax County Board of Supervisors after the recent election to discuss urban agriculture. He has not heard back yet, but when he and Ms. Smith spoke to them earlier in the year, they stated that they have several empty warehouses they are interested in utilizing for urban agriculture. He shared that Fairfax County recently amended its zoning ordinance to allow residents to grow gardens in their front yard, which was previously prohibited. As a result, there is an increasing number of county residents with gardens. He stated that there are 1.1 million residents in Fairfax County, and if 50,000 of them start gardening, that will result in additional agricultural inputs and potentially more produce for sale at local farmers' markets. He is looking forward to speaking with more officials in his district and coordinating meetings for Commissioner Bronaugh with those officials and with representatives of the Fairfax Food Council and the Fairfax County VCE agent.

John Marker

Mr. Marker reported that most of the corn and beans in his district have been harvested. The harvest was quicker than it was last year because the weather has been conducive to harvesting. The fruit harvest is complete for the year. Most of the farm markets have shut down for the year. His district has had many wet days but not a lot of rain, and they are still at a deficit. They have been feeding livestock in the area off and on for two months because of the impact of the lack of rain on pastures.

Kay Johnson Smith

Ms. Johnson Smith reported that there are two new Harris Teeter grocery stores in her area. There was concern about one of the Harris Teeters replacing a Food Star, which is a grocery store that focuses on Hispanic foods. She visited that Harris Teeter and was pleased to find that it still stocked many of the products people in the Hispanic community would want. She reported that she just returned from the Arizona Department of Agriculture Ag Roundtable, where she attended a consumer panel of young people who were asked where they get their information about food. Based on the answers of the participants, their number one source for information

about food and agriculture is social media, which can mean they are getting a lot of misinformation. The second source participants identified was farmers' markets, and they suggested that commercial producers go to farmers' markets to tell their stories in order to change young people's negative view of large agriculture. She announced that the National Association of State Departments of Agriculture will hold its annual policy meeting in Arlington on February 24 - 26. Finally, she handed out a save the date for her organization's (the Animal Agriculture Alliance) annual conference in May. The theme for this year's conference is Primed and Prepared.

L. Wayne Kirby

Mr. Kirby reported that the harvest is complete in his district. It was a mixed bag of yields. A period of 100-degree temperatures during the summer cut into the soybean and corn yields. Producers are in the midst of closing up, finishing up, and counting up and are planning to go again next year. He spoke to a fertilizer supplier who told him there is not much optimism in the industry after the two to three recent years of mediocre results. He concluded his report by saying they are just looking forward to something better in 2020.

Margaret Ann Smith

Ms. Smith reported that this summer was on the challenging side. It turned hot and dry in late July and June. On the cattle side, they saw producers dipping into their hay supplies much earlier than normal and marketing calves much earlier than normal. They are still seeing the consequences of that today. The cattle runs for the fall have been tremendous. Last week, their runs overwhelmed everyone in their industry on the cattle marketing side. Lynchburg had over 3,000 head of cattle on Monday. The sale started at 6 p.m. on Monday and finished at 10 a.m. on Tuesday.

She stated that there has been a lot of movement in the cattle market. The market has improved, and cattle prices are coming up a little bit. They are seeing the grass market starting for those out West. Cattle producers are scared about their hay supply because they had to start feeding early and are concerned they will not be able to find hay in the winter, especially if it ends up wet like last year. It has also been wet this fall. She reported that the processing plant in Holcomb, Kansas, is back online. It is bringing kill prices back up, which is feeding proceeds back to producers in Virginia. Their cash bid this week was \$119. They have not seen a cash bid that high on cattle in quite a while. There is the potential for huge optimism on the cattle side this spring.

Cecil Shell

Mr. Shell began his report by introducing himself to the Board. He stated the he raises tobacco, timber, grain, and vegetables in Lunenburg County. He reported that in his district, the season started out wet and ended up dry. Cattle farmers had lots of hay in the beginning but had to start feeding by the end of the summer. The grain crop was not as good as they expected it to be. The quality was not there for the tobacco, and the prices were not what they expected. He stated that it was a bad year but they are hoping to have a better one next year. He concluded his report by noting that many farmers in his area have begun growing industrial hemp.

Clifton Slade

Mr. Slade reported that he planted two and half acres of industrial hemp this season, harvested it, and it is now sitting in his barn with no interested buyers. That was not what he had expected, but there is a bottleneck at the processing facilities in Virginia. The farmers with more hemp

acreage are getting their crops processed first. It looks like he had a good yield, but, as a first time grower, he has nothing to compare it with. He reported that rain wreaked havoc on his organic vegetable crop. All the produce crops, tomatoes and strawberries especially, were hit hard with disease this year. He reported that he is still having deer problems but has managed to stop them by bringing in two dogs to guard his crop. He reported that he has never seen such a mixed bag of soybeans yields. The fields they thought were going to have good yields did not, but the fields with the shorter beans had better yields. He concluded by saying there was a decent corn yield, but the prices were bad.

O. Bryan Taliaferro

Mr. Taliaferro reported that the corn in his district was good to excellent. The test weight was very high. Some test weights were as high as 64, and the normal test rate is between 54 and 56, which is an increase in bulk density of 14 percent. That increase is reflected in the yield because each kernel weighs more. He stated that, generally, it was a good crop. Soybeans were a mixed bag. Some of the beans that were planted earlier managed to mature on the moisture in the soil. The rain during the July meeting in his area was the last rain they had until October, so it was extremely dry. Soybeans yields were average to poor. He commented that he is pleased they have at least one trade agreement in place with the North American Federal Trade Agreement, and he believes that Virginia agriculture will be better off because of it.

Neil Houff

Mr. Houff reported that Rockingham and Augusta counties saw some of the best yields they have ever seen for corn and soybeans. There continues to be concerns over the glyphosate issues that have moved from the West Coast to the East Coast. He stated that he hopes science will prevail and not perceived perceptions of misconduct. They have some new technology coming on board that will be very limited this year, including 2,4 - D type products that can be applied over-the-top on soybeans. It will be marketed under multiple brand names and has similar applications to dicamba products. Virginia has been fortunate to have managed dicamba well and has not had issues with off-target contamination.

He stated that there is continued concern that there are currently three herbicide products that require additional training beyond regular commercial or private applicator training. He expects that list to continue to grow. There is concern about the amount of additional training time for these products required of applicators and of individual farmers if they want to apply the product themselves. The additional training requirements have resulted in more farmers hiring commercial applicators. The training should be able to be incorporated into the established applicator training programs. Finally, Mr. Houff announced that the Virginia Crop Production Association will have its annual meeting in Richmond on January 21 - 23.

Kevin Kordek

Mr. Kordek began his report by welcoming Andrea Coron from the Virginia Pest Management Association (VPMA). He reported that, on the national level, there are environmental groups going after some important pesticide tools for mosquito and vector control on a very broad scale. There are some concerns that if legislation passes limiting the use of these pesticides, it could result in an increase of diseases spread by household pests like mosquitos and ticks.

VPMA just finished its master tech training courses for cockroaches and ants. The master tech program is a voluntary program where pest control companies send their technicians to gain university-level training on certain pests. This training is strictly voluntary and is not required for

VDACS certification. VPMA has been a national leader with these programs. VPMA also has a voluntary program for termite inspectors that it created 20 years ago. Homeowners know to expect a certain standard of conduct from VPMA certified applicators. This additional training is important because termite inspection forms are national documents that have to be submitted to mortgage companies as part of a home purchase in Virginia. The form recently changed, and there are companies that will submit the wrong form because they are not aware of the change because they did not go through the VPMA program. If the wrong forms are submitted, real estate transactions could be compromised. VPMA got the word out that everyone doing mosquito and bed bug control for public health needed to be certified for Category 8 (Public Health). VPMA conducted a prep course for the certification, and the pass rate was 71 percent, which was greater than usual.

He shared that there is a new disease called alpha-gal that is carried by the Lone Star tick. It was first identified in Australia, and there are now two reported cases in Virginia. The tick injects a complex carbohydrate that inhibits the body's ability to metabolize protein. He concluded his report by offering to connect Board members who are experiencing issues with deer with a group of retired first responders that kill and then harvest nuisance wildlife at the request of property owners. He expressed concern about gun laws affecting nuisance wildlife control, which may have unintended consequences that could impact public safety.

Shelly Barlow

President Barlow reported that they have completed their harvest and that it is now meeting season. She stated that it has been gratifying to meet the groups who support agriculture in Virginia and across the country. There are many smart and dedicated people supporting agriculture. She shared the reason for Mr. Horsley's absence from the Board meeting and that Secretary Schmidt recently added a Board roster with contact information to the available online Board materials. She expects the cotton harvest in her area to be one of the best ones they have ever seen, and they are thankful for a plentiful harvest. She thinks the Virginia averages will go up this year even though preliminary reports look low. The quality of the crop has been good, but prices are very troubling. They are hoping it turns around and that they get traction out of the North American Trade Agreement.

She noted that The Virginia Peanut Story, an hour-long program produced in her area about the Virginia peanut industry, was featured on public television last month and encouraged Board members to watch the program. She concluded by stating that it was a decent harvest overall in her district. Almost everyone is finished with harvest with the exception of a few who are harvesting bean and cotton. They are ready to wrap it up, take a break, and gear up for exciting things in 2020.

COMMISSIONER'S REPORT

Commissioner Bronaugh delivered her report to the Board. During the presentation of this report, she briefed the Board on personnel changes, recent events, and other matters relating to VDACS. A copy of the written report on which her presentation was based was included in the Board meeting folder.

UPDATE ON FARMER STRESS TASK FORCE

Commissioner Bronaugh presented the Board with an update on the activities of the Farmer Stress Task Force.

RECOGNITION OF A FORMER BOARD MEMBER

Commissioner Bronaugh presented a certificate to former Board member Rosalea Potter and thanked her for her outstanding work on the Board.

FINAL STAGE – 2 VAC 5-317 (REGULATIONS FOR THE ENFORCEMENT OF THE NOXIOUS WEEDS LAW)

President Barlow called on David Gianino, Program Manager of the Office of Plant Industry Services. Mr. Gianino presented the Board with a brief overview of the final action to amend 2 VAC 5-317.

Following Mr. Gianino's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-317, Regulations for the Enforcement of the Noxious Weeds Law, as presented by staff and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board. Mr. Shell seconded the motion, and it was carried by a unanimous vote of the Board.

FINAL STAGE – 2 VAC 5-320 (REGULATIONS FOR THE ENFORCEMENT OF THE ENDANGERED PLANT AND INSECT SPECIES ACT)

President Barlow called on Keith Tignor, Endangered Species Coordinator of the Office of Plant Industry Services. Mr. Tignor presented the Board with a brief overview of the action to amend 2 VAC 5-320.

Following Mr. Tignor's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-320, Regulations for the Enforcement of the Endangered Plant and Insect Species Act, as presented by staff and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

FINAL EXEMPT ACTION TO AMEND 2 VAC 5-600 (REGULATIONS PERTAINING TO FOOD FOR HUMAN CONSUMPTION)

President Barlow called on Ryan Davis, Program Manager, Office of Dairy and Foods. Mr. Davis presented the Board with a brief overview of the final exempt action to amend 2 VAC 5-600.

Following Mr. Davis's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-600, Regulations Pertaining to Food for Human Consumption, as presented by staff and that the Board authorize staff to take any and all steps necessary to amend this regulation through an exempt regulatory action as authorized by Section 3.2-5121 of the Virginia Food and Drink Law and to have this regulation become a final regulation of the Board. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

FINAL EXEMPT ACTION TO AMEND 2 VAC 5-490 (REGULATIONS GOVERNING GRADE "A" MILK)

President Barlow called again on Ryan Davis. Mr. Davis presented the Board with a brief overview of the final exempt action to amend 2 VAC 5-490 and answered Board member questions.

Following Mr. Davis's presentation and discussion by the Board, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-490, Regulations Governing Grade "A" Milk, as presented by staff and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board through an exempt regulatory action as authorized by Section 3.2-5206 of the Virginia Milk, Milk Products, and Dairies Law. Mr. Shell seconded the motion, and it was carried by a unanimous vote of the Board.

PROPOSED FAST-TRACK ACTION TO AMEND 2 VAC 5-501 (REGULATIONS GOVERNING THE COOLING, STORING, SAMPLING AND TRANSPORTING OF MILK)

President Barlow called again on Ryan Davis. Mr. Davis presented the Board with a brief overview of the proposed fast-track action to amend 2 VAC 5-501.

Following Mr. Davis's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-501, Regulations Governing the Cooling, Storing, Sampling and Transporting of Milk, as presented by staff today and that the Board authorize staff to take any and all steps necessary to amend this regulation through a fast-track regulatory action. Dr. McKinnie seconded the motion, and it was carried by a unanimous vote of the Board.

MEETING RECESS

At approximately 10:38 a.m., President Barlow called for a recess. The meeting reconvened at approximately 10:58 a.m.

UPDATE ON VIRGINIA LIVESTOCK AND POULTRY LAW AND RELATED REGULATIONS CIVIL PENALTY MATRIX

President Barlow called on Dr. Carolyn Bissett, Program Manager of the Office of Veterinary Services. Dr. Bissett provided a brief overview to the Board on the proposed revisions to the Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix.

Following Dr. Bissett's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt the proposed revisions to the Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix, as presented by staff and authorize staff to take any and all steps necessary to publish and receive public comment on these proposed revisions. Mr. Shell seconded the motion, and it was carried by a unanimous vote of the Board.

UPDATE ON OFFICE OF ANIMAL CARE AND EMERGENCY RESPONSE CIVIL PENALTY MATRIX

President Barlow called again on Dr. Bissett to provide a brief overview to the Board on the proposed revisions to the Office of Animal Care and Emergency Response Civil Penalty Matrix.

Following Dr. Bissett's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt the proposed revisions to the Office of Animal Care and Emergency Response Civil Penalty Matrix as presented by staff and authorize staff to take any and all steps necessary to publish and receive public comment on these proposed revisions. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

BOARD NOTIFICATION OF EXPANDED FIRE ANT QUARANTINE

Board of Agriculture and Consumer Services

December 12, 2019

Page 8

President Barlow called on David Gianino, Program Manager, Office of Plant Industry Services. Mr. Gianino briefed the Board on the Expanded Fire Ant Quarantine and responded to Board member questions.

PESTICIDE CONTROL FUND UPDATE

President Barlow called on Larry Nichols, Director, Division of Consumer Protection. Mr. Nichols provided an update on the Pesticide Control Fund and responded to Board member questions.

REQUEST FOR AUTHORIZATION TO RELEASE RECORDS REQUIRED TO BE HELD IN CONFIDENCE BY VA. CODE § 3.2-103(4)

President Barlow called on Liza Fleeson Trossbach, Program Manager of the Office of Pesticide Services; and Erin Williams, Senior Policy Analyst with the Office of Policy, Planning, and Research. Ms. Trossbach and Ms. Williams presented an overview of the Request for Authorization to Release Records Required to be Held in Confidence by Va. Code § 3.2-103(4) and responded to Board member questions.

NEW BUSINESS

Kevin Schmidt announced that Virginia State Statistician Herman Ellison provided copies of press releases about two new National Agricultural Statistics Service surveys, which were included in Board member binders.

There was no other new business introduced.

FUTURE BOARD MEETINGS

President Barlow announced that in 2020, the Board is scheduled to meet in Richmond on March 19 and May 21. The December meeting is tentatively scheduled for December 10 in Richmond, but President Barlow indicated she may have a conflict. She also announced that she will host the summer meeting and tour in Southeast Virginia and that she is interested in coordinating the Board's meeting with the 2020 National Association of County Agricultural Agents Annual Meeting and Professional Improvement Conference to be held July 19-24, 2020, in Virginia Beach.

PUBLIC COMMENT PERIOD

There was no public comment.

ADJOURNMENT

There being no further business, Mr. Kirby made a motion for the Board to adjourn. Mr. Sellers seconded the motion, and it was carried by a unanimous vote of the Board. The Board adjourned at approximately 12:26 p.m.

Respectfully submitted,

Shelley Barlow
Board President

Kevin Schmidt
Board Secretary

BOARD OF AGRICULTURE AND CONSUMER SERVICES (BACS)
APPOINTED BOARD MEMBER TERMS
As of May 11, 2020

Elected Officers

For the term July 1, 2019 – June 30, 2020

President – Shelley S. Butler Barlow

Vice- President – Kevin Kordek

Secretary – Kevin Schmidt

MEMBER'S NAME	DISTRICT	TERM EXPIRES
O. Bryan Taliaferro, Jr.	1st	June 30, 2023 (2nd term)
Don Horsley	2nd	June 30, 2021 (1st term)
Shelley S. Butler Barlow	3rd	June 30, 2023 (2nd term)
Clifton A. Slade	4th	June 30, 2021 (1st term)
Cecil Shell	5th	June 30, 2021 (unexpired term)
Margaret Ann Smith	6th	June 30, 2023 (1st term)
L. Wayne Kirby	7th	June 30, 2021 (2nd term)
Kay Johnson Smith	8th	June 30, 2023 (2nd term)
James S. Huffard, III	9th	June 30, 2021 (1st term)
John R. Marker	10th	June 30, 2021 (2nd term)
Richard Sellers	11th	June 30, 2021 (1st term)
Neil A. Houff	Pesticide – Commercial- Agricultural	June 30, 2020 (1st term)
Kevin J. Kordek	Pesticide – Commercial- Structural	June 30, 2020 (2nd term)

COMMISSIONER'S REPORT TO
BOARD OF AGRICULTURE AND CONSUMER SERVICES
May 21, 2020

PERSONNEL NEWS

Memo Maquivar was selected as the Director of the Division of Marketing and Development (DMD) in March. Memo replaces Stephanie Agee, who resigned her position as DMD Director effective December 31, 2019, to assume her new position as the Vice President of International Marketing at the Virginia Economic Development Partnership. Memo is an experienced global marketing professional who has held leadership roles in the U.S. and abroad working for well-known agribusiness companies such as Procter & Gamble, Kellogg, PepsiCo (Tropicana), and, most recently, Altria, where he served as Senior Marketing Director at Philip Morris USA. Memo holds an MBA degree from Katholieke Universiteit Leuven in Belgium as well as a Bachelor in Business degree from ITAM University in Mexico City. Memo began his new duties on March 11, 2019.

Due to the COVID-19 pandemic, the U.S. Army deployment of Dr. Charlie Broaddus, State Veterinarian, has been extended beyond its original estimated end date of April 2020. No new timeframe has been provided for his return.

Elaine Lidholm, the Director of the Office of Communications, announced her retirement, effective July 1. Elaine's last day in the office was May 5. Assistant Director Michael Wallace will serve as the Acting Director of Communications until the Director position is filled. The position is currently under recruitment.

COVID-19 RESPONSE

On March 12, Governor Northam issued Executive Order (EO) 51, which included declaration of a state of emergency in Virginia due to the novel coronavirus (COVID-19). As a result of EO 51, the State Coordinator of Emergency Management directed the activation of the Virginia Emergency Operations Center and the Emergency Support Teams to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments throughout the Commonwealth. VDACS is responsible for Emergency Support Function 11 (ESF-11) Agriculture and Natural Resources. ESF-11 was fully activated on March 16 with the following VDACS Divisions and Offices actively engaged in emergency disaster response:

- The Division of Marketing and Development (DMD): Director's Office and Office of Food Distribution
- The Division of Animal and Food Industry Services: Office of Dairy and Foods and Office of Meat and Poultry Services
- The Commissioner's Office: Office of Communications
- The Office of Administrative and Financial Services: Budget Office

In March, VDACS launched a COVID-19 Emergency Information Center on its agency website. This webpage, which includes a message to farmers from Commissioner Bronaugh, was designed by the

VDACS Office of Communications (OC) to provide guidance and resources to Virginia farmers, industry, and regulated agribusiness operations. A press release and social media posts were distributed to alert the public and agriculture stakeholders of the website. Posted information included three guidance documents developed by the Office of Dairy and Foods (ODF) to provide information on how regulated establishments should conduct business in order to help prevent the spread of COVID-19 and to comply with EO 53 and EO 55.

In March, the U.S. Department of Agriculture (USDA) granted the VDACS Office of Food Distribution (OFD) approval to conduct a disaster household distribution program from March 28 through April 26. In April, in response to a request from OFD, USDA approved the extension of Virginia's program through May 27. All seven Virginia food banks are participating in the program, which is designed to meet increased feeding needs due to the COVID-19 pandemic. With the disaster household distribution program in place, many of the normal USDA rules and regulations have been waived. Participants are not required to complete an application or to sign any forms. The goal is to limit exposure between staff and recipients. No income requirements will be in place, and no financial information will be gathered from recipients. In the first week of the Disaster Household Feeding Program, the Peninsula Foodbank distributed food to 700 families, the Fredericksburg Foodbank distributed food to 525 families, and the Capital Area Foodbank distributed food to 603 families.

OFD received additional USDA funding for The Emergency Food Assistance Program (TEFAP) and the Disaster Household Feeding Program, both of which operate at the seven Virginia food banks. The Coronavirus Aid, Relief, and Economic Security Act (CARES) will provide Virginia with an additional \$9,038,882 in TEFAP funding. This will include both food and administrative funding for the Federation of Virginia Food Banks to assist with providing for families in need due to the Coronavirus Pandemic. The Families First Coronavirus Response Act (FFCRA) provided an additional \$8,031,865 of TEFAP funding.

OFD requested a number of USDA program waivers due to the coronavirus pandemic to make food distributions safer. The following waivers were granted:

- A request to allow TEFAP and the Commodity Supplemental Food Program (CSFP) to suspend signature requirements for participants receiving food.
- A request to allow CSFP participants to receive two boxes every other month instead of one box a month. This will minimize the number of distributions without reducing the amount of food distributed.
- A request to extend the current registration forms for TEFAP program participants for an additional year. Participants will not have to complete new forms to remain in the program this year.

In May, Commissioner Bronaugh presented a draft letter to the National Association of State Departments of Agriculture (NASDA) to request that Personal Protective Equipment (PPE) for food and agriculture workers be prioritized behind health workers. The letter was developed in partnership with the national organization, Agrisafe, and then approved to go forward by NASDA's membership. The letter was addressed to Vice President Pence and U.S. Secretary of Agriculture Perdue by NASDA. Secretary Perdue acknowledged the request and has since made a statement on the importance of PPE for food and agriculture processors and producers. The request also led to Agrisafe

being considered by USDA as a location to house a national list of PPE distributors.

Commissioner Bronaugh and Deputy Commissioner Green are spending considerable time communicating with representatives from Virginia's poultry processing companies as these companies address COVID-19 outbreaks within their facilities. Of particular concern, due to limited Intensive Care Unit beds on the Eastern Shore of Virginia, were two processing plants on the Eastern Shore of Virginia. VDACS has been in regular communication with the Virginia Health Department (VDH), and Deputy Commissioner Green and Acting State Veterinarian Bissett are participating in a newly formed Poultry Plant COVID-19 Workgroup coordinated by Dr. Julia Murphy at the Virginia Department of Health (VDH).

In April, Secretary of Agriculture and Forestry Ring, the Commissioner's Office, and Office of Agriculture and Forestry Development (OAFD) staff hosted a conference call with more than 150 participants, including members of the Virginia Agriculture Development Officers, members of the Virginia Association of Counties, Virginia Cooperative Extension (VCE) agents, and economic developers from across the Commonwealth. Secretary Ring explained Governor Northam's Executive Orders 53 and 55 and their impacts on the agricultural industry as a whole. The Commissioner's Office shared information and answered questions regarding ways that localities can support grocery stores and similar food retailers, farmers' markets, pick-your-own operations, farm stands, and livestock and produce auctions during the COVID-19 pandemic. OAFD staff presented information about the Governor's Agriculture and Forestry Industries Development (AFID) Fund planning grant and its new guidelines, which aim to make the grant more accessible and widely used, particularly among rural and economically distressed communities.

In April, ODF staff coordinated a call for the Office of the Secretary of Agriculture and Forestry and the VDACS Commissioner's Office with corporate representatives of grocery and convenience store chains to discuss COVID-19 related guidance for retail food stores. Governor Northam joined the call to thank the grocery industry for all of its hard work in continuing to provide food to the citizens of Virginia. Secretary Ring also thanked the food industry for its work and for putting practices into place to help stop the spread of COVID-19. ODF walked participants through VDACS's COVID-19 guidance document for groceries and retail food businesses on the call, which is posted along with other resources on VDACS's online COVID-19 Emergency Information Center. The call concluded with an open discussion facilitated by ODF with the participating industry representatives about their concerns as well as an opportunity for staff to answer participant questions regarding COVID-19, current procedures, and the VDACS guidance document that was reviewed during the call.

DMD staff has been working with Virginia Department of Education nutrition staff to assist schools as they provide meals to students during the school shutdown. Schools systems are serving two meals to students per day, five days per week. USDA approved a waiver submitted by OFD for Virginia schools to operate under the Summer Food Service Program model while the schools remain closed. Staff is also working with the Virginia Emergency Management Feeding Task Force to develop ideas for meeting the state's feeding needs during the COVID-19 pandemic. This group meets weekly.

The coronavirus outbreak continues to impact agriculture related business transactions and trade events around the world as the virus continues to spread. All spring trade shows, including VDACS's 2020 Food and Beverage Expo, the Food and Hotel Asia (FHA) show in Singapore, FoodEX Japan, the

Dubai WoodShow, the Interzum Guangzhou and Domotex China trade shows, and Boston Seafood Show have been cancelled or postponed. Division of Marketing and Development staff is working to provide Virginia companies with information and resources to assist them during these difficult times.

In April, in response to the COVID-19 guidance to Virginia farmers' markets, the Office of Domestic Marketing (ODM) co-hosted a Market Ready Farm to eCommerce Webinar with VCE. The webinar focused on providing information to farms and market managers about adopting new methods (such as online sales) to get their products to consumers. Presentations included e-commerce basics, pricing, managing risk, and online sales platform recommendations. Speakers included representatives of Virginia Tech, VCE, the Madison Farmers' Market, Fall Line Farm and Local Roots, Piedmont Environmental Council, and the Local Energy Alliance Program. Staff served on a panel discussion during the webinar. There were 476 registered participants for the webinar, including representatives from several DMD programs.

In early April, ODM reached out to Good Agricultural Practices-certified produce growers in the Commonwealth with contact information for their VDACS Regional Market Specialists. Recognizing that the COVID-19 pandemic and social distancing would lead to disruptions in markets and normal distribution systems, staff requested that producers reach out to VDACS staff so they assist with connecting buyers and sellers more efficiently. This effort has resulted in at least eight new producers selling product to two distributors and one retailer.

Sales at the Tri-State Livestock Market in Abingdon and Farmers Livestock Exchange in Winchester resumed following short closures due to COVID-19. Most livestock sales have continued to be held without interruption at livestock markets around the state. However, Market News reports that national beef and pork slaughter capability is down significantly due to processing plant closures and plants running at reduced capacity. There continues to be an abundance of livestock in the U.S. ready for harvest, but the reduced capacity in slaughter, packing, and distribution systems has resulted in a backup through supply channels. As of May 7, beef slaughter was down 32 percent and pork slaughter was down 36 percent nationwide compared to the same period last year. Although the decrease is significant, it appears some progress is being made with supplying additional PPE and testing equipment. Efforts are also being made to install barriers and increase space between workers. A few plants have recently reopened, although many are still closed or running at reduced capacity.

Market News reports that prices for several agricultural commodities have decreased significantly since late February due to the COVID-19 pandemic. Below is a summary as of May 1 compared to late February:

Percentage of Price Decrease from February to May 1, 2020	
Corn	11 percent
Soybeans	4 percent
Feeder Cattle	5 percent
Slaughter Cattle	16 percent
Hogs	26 percent
Broilers	21 percent
Cotton	9 percent

On April 24, the U.S. Citizenship and Immigration Services (USCIS) granted approval for travel to the U.S. for Southside Virginia-bound H-2A workers. The Virginia Agricultural Workers Association made travel arrangements for the workers, who arrived in mid-May. Tobacco planting began in Southside in April, aided by H-2A workers that arrived in March, local labor, and family members.

On March 19, the U.S. Food and Drug Administration (FDA) notified states that, due to COVID-19, all in-person inspections would be postponed until further notice. FDA will be issuing partial stop orders for any agency that holds contracts with FDA to conduct inspections. The Office of Plant Industry Services (OPIS) conducts FDA-supported current Good Manufacturing Practices (cGMP) and bovine spongiform encephalopathy (BSE) inspections at medicated and non-medicated feed mills.

ODF is receiving a large volume of calls from customers of retail food establishments that are reported to be not adhering to social distancing mandates and not providing sanitizer for use in the wiping down of food carts. Calls were also received from employees of retail food establishments who were concerned that they were not being adequately protected by their employer from COVID-19. Staff is also responding to calls from corporate contacts in regards to COVID-19-positive workers.

ODF staff has conducted joint visits of numerous food establishments in the City of Richmond with representatives of the City of Richmond Health Department and City of Richmond Police Department. These joint visits were at the request of the police department, which had received a number of complaints that the establishments were not adhering to guidelines related to COVID-19. Staff provided the printed guidance from the VDACS and Virginia Department of Health (VDH) websites to each of the establishment visited.

The Office of Laboratory Services (OLS) has been communicating with veterinary practitioners regarding the availability of COVID-19 Polymerase Chain Reaction (PCR) testing for animals. At this time, despite the detection of a few cases, COVID-19 infection of animals is regarded as incidental. Neither VDACS labs nor the laboratory at the Virginia Maryland College of Veterinary Medicine are offering COVID-19 testing for animals, although there are private labs who will test for a fee. If a case in an animal is related to a human infection and testing is deemed necessary by the State Veterinarian and the State Public Health Veterinarian, there are some National Animal Health Laboratory Network labs across the country that are offering official COVID-19 PCR testing.

Office of Meat and Poultry Services (OMPS) staff have provided daily slaughter and processing inspection coverage throughout the COVID-19 pandemic. Slaughter and processing quantities have increased to help meet the increased demand for meat products. Some facilities, especially smaller operations, have sold all of their available product and the demand for their meat products continues. Some operations have modified their production to meet demands. For example, a plant that previously sold primarily to restaurants modified its operations to produce products that are marketable to retailers and consumers. One plant that sold predominantly to restaurants in Washington, D.C.; Northern Virginia; and New York saw its orders abruptly end with the onset of COVID-19 and the resulting closure of most restaurants. The company adjusted its production and sales and is now selling ground beef in retail packages to a large retail store chain in Virginia and selling mixed steaks in 8 and 10-pound boxes similar to Omaha Steaks. The boxes are available at various locations in Virginia. Both

new practices have proven very successful and will provide some diversification to the operations when restaurant orders resume. Some plants have continually worked extended hours to meet new product demands. OMPS staff have performed inspection responsibilities throughout the COVID-19 threat. The entire inspection team is committed to providing continuous inspection coverage to allow the meat industry to maintain production.

Beginning in April, the Office of Pesticide Services (OPS) implemented in-person testing for prospective pesticide applicators. With the statewide closure of Department of Motor Vehicles customer service centers due to COVID-19, prospective applicators' options for testing have been greatly reduced. To ensure prospective applicators continue to have opportunities to take the required examinations to become certified, OPS developed a priority based in-person testing plan that maintains social distancing requirements. Priority is given to commercial applicators involved in food production as well as general pest control services. OPS is utilizing Virginia's 4-H Centers and the Tidewater Agricultural Research and Extension Center as testing locations. In-person testing is currently scheduled weekly through the end of May. As of May 1, 141 eligible prospective applicators have been offered the opportunity for in-person testing, with 23 testing for certification in one or more categories.

OPS notified professional associations and the Virginia Farm Bureau Federation, Virginia Agribusiness Council, and VCE of extensions to the (i) certification renewal date for pesticide applicators from June 30 to August 29, 2020, and (ii) expiration dates for all authorization letters that allow prospective pesticide applicators to take the certification exam. Many applicator recertification courses have been cancelled or postponed due to the COVID-19 pandemic. These extensions will allow applicators an additional 60 days to take the recertification training required for renewal. Applicators who have not yet renewed their certification may continue to apply pesticides between June 30 and August 29; however, all applicators must renew by 11:59 p.m. on August 29. Authorization letters, which allow prospective pesticide applicators to take the certification exam, are usually valid for 90 days. With this extension, letters issued on or after December 20, 2019, will have their expiration dates extended to July 31, 2020, if the current date of expiration is earlier. Impacted prospective applicators that do not take the exam by July 31, 2020, will be required to submit a new application with appropriate fees to take the exam.

OPS staff has been working with VCE to assist agricultural producers by providing Worker Protection Standard (WPS) trainings to their Spanish-speaking workers via webinar. The webinar training maintains social distancing while ensuring compliance with the WPS, which requires workers and handlers to be trained prior to beginning work. The training must be completed annually and in a language the workers understand. Participants are able to interact with the presenters during the webinar. To date, five such trainings have been conducted.

In May, OPS staff participated in the webinar "Lack of PPE for Pesticides" presented by Oregon State University and the Agrisafe Network. Due to the worldwide COVID-19 pandemic, some pesticide applicators are experiencing difficulty finding PPE, specifically face masks required for use by applicators on many pesticide labels. The information shared included a "decision making tree" resource for growers struggling with the lack of PPE. OPS will share this information with pesticide applicators via professional associations, VCE, and on the agency website. To date, OPS is not aware of any specific issues in Virginia regarding a lack of PPE for pesticide applicators.

The Office of Weights and Measures (OWM) will allow prospective service technicians who were scheduled to complete OWM's March service technician class to begin work as certified service technicians provided the online training course offered through the Commonwealth of Virginia Learning Center is completed in lieu of the in-person training. The March service technician training class was postponed due to COVID-19. This one-time exception to the in-person training for new technicians is available only for the duration of the COVID-19 Emergency Order.

Information Systems staff are working diligently to support teleworking, including requesting over 100 new VPN accesses, monitoring Virginia Information Technologies Agency (VITA) activities to expand VPN capacity, and working with VITA to ensure PC support for remote users. This effort is ongoing as the agency continues to adapt to social distancing efforts in response to COVID-19.

On May 9, Governor Ralph Northam signed Executive Order Sixty-One, which provided a detailed framework for the first phase of the "Forward Virginia" plan, including updated guidelines for the reopening of certain VDACS-regulated businesses. As of May 15, restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms are permitted to offer outdoor dining at 50 percent occupancy in addition to delivery and take-out services, provided such businesses comply with previously established social distancing and sanitation guidelines as well as sector-specific guidance for restaurant and beverage services. Farmers' markets may also offer on-site shopping as long as certain conditions are met, including physical distancing guidelines, the configuration of operations to avoid congestion or congregation points, the use of face coverings by employees and vendors, the provision of hand sanitizer stations or hand washing stations for patrons and employees, and the disinfection and cleaning of frequently contacted surfaces.

GOVERNOR'S PRIORITIES

In February, Deputy Secretary of Agriculture and Forestry Copenhaver, Assistant Secretary of Agriculture and Forestry Hertz, Commissioner Bronaugh, Deputy Commissioner Green, and staff from the Office of Policy, Planning, and Research (OPPR) participated in a conference call with representatives of the U.S. Department of Agriculture (USDA), including the head of USDA's Domestic Hemp Production Program, regarding USDA's review of VDACS's Plan to Regulate Hemp Production in the Commonwealth. USDA identified specific areas of Virginia's plan that do not include provisions identical to those in USDA's Interim Final Rule for Domestic Hemp Production and has requested that VDACS revise and resubmit its plan. USDA advised some states have indicated an intention to administer a 2014 Farm Bill-compliant hemp research program but have submitted plans to regulate hemp production in compliance with the 2018 Farm Bill that establish an effective date close to the October 31, 2020, effective date of the repeal of the hemp-related provisions of the 2014 Farm Bill. VDACS is reviewing USDA's feedback and considering the amendments necessary to respond.

In February, staff from across VDACS attended the third annual Industrial Hemp Summit in Danville. This business-to-business event is hosted by the Institute for Advanced Learning and Research and the North Carolina Industrial Hemp Association and included panels and presentations on topics including laboratory testing, the hemp fiber supply chain, hemp extract processing, investment opportunities, and retail operations. OPPR staff participated on a regulatory panel with hemp regulators from Kentucky, North Carolina, and Tennessee. A consistent theme in many of the event's panel discussions was the

national oversupply of hemp crop and hemp extract and the need for the hemp industry to adjust its expectations regarding the potential revenue from this crop and its products.

Total number of active industrial hemp registrations, as of May 9, 2020:	
Industrial Hemp Grower Registrations	1,266
Industrial Hemp Processor Registrations	365
Industrial Hemp Dealer Registrations	229
Planned Hemp Acreage For 2020	9,550

The Food Safety Program has completed the inspections of nine Registered Industrial Hemp Processors who are now manufacturing industrial hemp-derived extracts intended for human consumption. Eleven Registered Industrial Hemp Processors currently have pending applications to be inspected as manufacturers of industrial hemp-derived extracts intended for human consumption.

Since December, Governor Northam has announced three new AFID Fund facility grants totaling \$240,000. These projects represent \$42,258,352 in new capital investment, 102 new jobs and four full-time equivalent positions, and commitments for the purchase of \$19,978,335 of Virginia-grown agriculture and forestry products. The grants were awarded to (i) Pittsylvania County for AeroFarms, (ii) City of Harrisonburg for Sage Bird Ciderworks, and (iii) City of Richmond for River City Cider. To date, 90 AFID Fund facility grants have been successfully awarded to 56 localities across Virginia. While the Governor’s office is not making economic development announcements at this time due to the COVID-19 pandemic, progress continues on AFID Fund projects, with seven applications submitted to the Secretary’s office and several more in the pipeline.

On April 22, Governor Northam signed Chapter 1220 of the 2020 Acts of Assembly, which formally established the Governor’s AFID Fund Planning Grant program. At the Governor’s request, the General Assembly approved the addition of an emergency clause that would enact the chapter immediately upon his signature. The emergency clause was added because the program awards small grants to local governments to support and promote agriculture and forestry, which the Governor considers a potentially valuable tool in aiding localities and businesses impacted by the COVID-19 pandemic. Secretary Ring has approved revised guidelines that will make the program more accessible, especially for rural counties. Projects addressing COVID-19-related impacts will be reviewed and awarded on an expedited basis. The new program guidelines have been well received, and several applications are already in process.

On February 19, Governor Northam announced awards totaling \$350,000 from the Virginia Farmland Preservation Fund to six Virginia localities to permanently preserve working farmland through local Purchase of Development Rights programs. This year’s grant recipients are Albemarle, Clarke, Fauquier, and Stafford counties, as well as the cities of Chesapeake and Virginia Beach. These grant allocations bring the total allocation of state matching funds for this program to \$12.8 million since 2008. Since the program’s inception, 23 localities have preserved more than 14,100 acres on 105 farms.

AGENCY OPERATIONS

The annual reports for each of the 15 agricultural commodity boards for fiscal year 2019 were received, verified, and posted to the VDACS website at <http://www.vdacs.virginia.gov/about/boards.shtml>. The reports are available online to provide full access to the Board of Agriculture and Consumer Services as well as excise paying producers. If any board member would like additional information or to request a presentation from any of the commodity boards, please let Secretary Schmidt know and we will work to schedule a presentation at a future meeting.

Commissioner's Office

In January, Commissioner Bronaugh, Deputy Commissioner Green, and various VDACS staff participated in the annual Virginia Agribusiness Legislative Reception and Banquet at the Richmond Raceway. The VDACS Office of Promotions (OP) supported this event by organizing the Virginia's Finest reception exhibitors and exhibits, providing event ushers, and developing marketing materials. Governor Northam and Secretary of Agriculture and Forestry Ring provided keynote remarks. Many VDACS staff and Virginia's Finest producers were acknowledged for their work in promoting Virginia agricultural industries, including Commissioner Bronaugh, who was the recipient of the Special Recognition of an Individual award.

In January, Secretary Ring, Assistant Secretary Hertz, and Commissioner Bronaugh participated in the Virginia Farm to University Forum at the University of Virginia's Morven Farm in Albemarle County. Secretary Ring provided comments on "Farm to University Opportunities for the Virginia Food System." The goal of the forum was to discuss ways Virginia universities can better support Virginia's food and agriculture economy. Specific strategies were discussed to bolster recommendations to increase opportunities for institutional procurement of local farm products.

In January, Commissioner Bronaugh joined Dr. Kim Niewolny, Virginia Tech Extension Specialist, at the 2020 Virginia Cooperative Extension (VCE) Winter Conference to highlight the Farmer Stress Task Force initiatives and encourage VCE agents to obtain a Mental Health First Aid (MHFA) certification. MHFA certification training was offered at the conference through a partnership with the Department of Behavioral Health and Developmental Services. Fifteen (15) VCE agents completed the training and were certified to identify stress and mental health issues amongst the stakeholders with whom they work.

In January, the Office of Communications distributed the Virginia Agriculture magazine to state and federal legislators and agency staff. Virginia Agriculture magazine is published once a year at no cost to VDACS by Journal Communications and serves as a guide to the Commonwealth's farms, food, and forestry industries. This year, Board of Agriculture and Consumer Services member Clif Slade is featured on the magazine's cover and in an article about the industrial hemp industry in Virginia. Virginia Agriculture is available online and is also distributed in hard copy to VCE agents, farmers, agriculture organizations, and to individuals and groups by request.

In February, Commissioner Bronaugh and VDACS staff participated in the 30th annual Eastern Shore Agricultural Conference and Trade Show at the Eastern Shore Community College Workforce Development Center in Melfa. Commissioner Bronaugh delivered the keynote address to attendees.

Market News staff presented a potato market outlook that included information on prices, shipments, and production in the U.S. and Canada. Information on chipstock potato contracts was also provided to assist producers in upcoming negotiations. Several faculty from Virginia Tech presented the latest research in crops, diseases, and other trends relevant to the audience. Office of Pesticide Services (OPS) staff provided the required pesticide regulatory update and made resources available, including the Worker Protection Standard (WPS) How to Comply manuals, training videos, and pesticide recordkeeping manuals. An estimated 175 attendees participated in the event.

In February, Commissioner Bronaugh and Office of Domestic Marketing (ODM) staff met with China Tobacco International NA (CTINA) officials in Raleigh, North Carolina. Discussions centered on current Virginia tobacco production and increased tobacco production and marketing opportunities with the recently signed Phase One Trade Agreement with China. The trade agreement requires China to purchase between \$40 and \$50 billion in U.S. agricultural products over each of the next two years. Tobacco is included among the qualifying agricultural products under Phase One. CTINA was a key purchaser of Virginia bright flue-cured tobacco prior to the 2018 and 2019 trade embargo with China. CTINA officials indicated that they were very optimistic about the resumption of U.S. tobacco purchases; however, the coronavirus outbreak has seriously impacted business operations and activities in China. This has effectively delayed decisions for increased purchases of U.S. tobacco in 2020.

In February, Commissioner Bronaugh attended the Delmarva Poultry Industry (DPI) Board of Directors Meeting in Salisbury, Maryland. Along with Secretary Joe Bartenfelder of the Maryland Department of Agriculture and Deputy Secretary Kenneth Bounds of the Delaware Department of Agriculture, Commissioner Bronaugh provided an update on agricultural and environmental issues and programs within Virginia and VDACS and the status of proposed legislation within the Virginia General Assembly. Much of the meeting focused on legislation that could impact poultry producers within the Delmarva Region and the redesign of the new DPI logo.

In February, Commissioner Bronaugh and Deputy Commissioner Green attended the Virginia Grain and Soybean Annual Conference in Richmond, at which Secretary of Agriculture and Forestry Ring was a keynote speaker. The Virginia Grain and Soybean Annual Conference serves as a valuable educational, networking, and business planning resource for Virginia grain and soybean farmers large and small. The conference offered presentations and breakout sessions on various topics, including farm transition, climate change, and others.

In February, Commissioner Bronaugh participated in the annual National Association of State Departments of Agriculture (NASDA) Winter Policy Conference in Washington, D.C. During the conference, policy amendments were passed relative to Domestic Marketing and Promotion and Nutrition and Food Assistance. Policy action items were passed to address H-2A (temporary foreign agricultural workers) Commercial Driver's License truck drivers in the sugarcane industry, increase broadband funding, prioritize farmer mental health, extend the industrial hemp pilot program, create a uniform electronic hemp reporting system, protect common food names in trade agreements, and fund USDA's Ag in the Classroom program. Commissioner Bronaugh chaired the Rural Development, Financial and Security Committee and shared Virginia's progress in addressing farmer stress and mental health. Commissioner Bronaugh also attended a meeting with the USDA-Agricultural Marketing Service Administrator and Program Chief to comment on the USDA Hemp Interim Final Rule and met with staff from the USDA - Animal and Plant Health Inspection Service to discuss

Virginia's partnership and progress in treating Spotted Lanternfly in affected areas of Virginia.

In February, Commissioner Bronaugh met with a coalition of citizens and farmers from the Northern Neck Deacon's Union. Commissioner Bronaugh gave an overview of VDACS and discussed the progress of several agriculture related bills within the Virginia General Assembly. She acknowledged Mr. Raymond Corbin for his research efforts that led to a soybean seed variety being named after him at Virginia Tech. Commissioner Bronaugh will speak at an event on April 4 in the Northern Neck to formally recognize Mr. Corbin for his research efforts and acknowledge his contributions as an African American farmer.

In March, Secretary Ring, Commissioner Bronaugh, Deputy Commissioner Green, and agency staff participated in Virginia Agriculture Literacy Week. Approximately 50 VDACS employees read to children in schools and daycares across the state. This year's book was PB&J Hooray! by Janet Nolan, which tells the story of how peanuts become peanut butter, grapes are made into jelly, and wheat turns into bread.

In partnership with ODF staff, Commissioner Bronaugh led a virtual meeting in May to discuss the challenges of Virginia's dairy industry and ideas for addressing those challenges. Coordinated by the ODF Program Manager, the meeting allowed inspectors to share their perspective on what could help the industry. Ideas ranged from on-farm processing, raw milk sales, promotional marketing/funding, and others. The list of ideas will be finalized and presented where appropriate.

Division of Marketing and Development (DMD)

In December, DMD learned that Perdue International sold three vessels of soybeans as a result of the North African Inbound Soybean Mission led by the Office of International Marketing (OIM) and the Office of Domestic Marketing (ODM) in November. The mission included buyers from Morocco, Algeria, Tunisia, and Egypt. North Africa is a growing market for soybeans, and this inbound mission to Virginia hosted buyers from the region interested in meeting with Virginia soybean suppliers. The buyers participated in meetings with representatives of the Port of Richmond, Old Dominion Grain, Perdue, and several other companies. As of December 20, approximately six million bushels of soybeans have been sold as a result of this mission.

In December, Office of Agriculture and Forestry Development (OAFD) staff met in Richmond with Virginia Farm Bureau Federation (VFBB) representatives to discuss the Virginia Farm Link website. VFBB has agreed to take over hosting duties for the website, which will enable major updates to the existing website that will result in substantial improvements to data and user accessibility. In addition, VFBB has indicated its willingness to allocate some resources towards these efforts and facilitating the implementation of the Farm Link program.

In December, OAFD staff participated in the State Forester's Industry Roundtable at Department of Forestry's Eastern Regional Office in Providence Forge. Industry participants at the meeting included representatives from hard- and softwood sawmills, pellet mills, pallet manufacturers, Dominion Energy, forestry consultant groups, and VFBB's Forestry Advisory Committee. This is the second of such roundtables organized by DOF, and industry representatives participated in a facilitated session, sharing what they see as the industry's top challenges. Challenges discussed included

insufficient markets, especially for pulp wood; not enough truck drivers; an oversupply of pine and state subsidies to plant more; increasing and inconsistently administered regulations; and potentially unsustainable hardwood forest resources. The results of the two roundtable discussions were shared at the January meeting of the Virginia Board of Forestry, during which OAFD staff presented information about VDACS resources and programs that are available for assistance.

In January, DMD staff hosted a group of Indonesian soybean buyers. These contacts were initially made by OIM staff during a business roundtable meeting between the Indonesian Ambassador and Governor Northam in 2019. Since that first meeting, the OIM Program Manager continued contact with the buyers. Meetings were arranged with Old Dominion Grain in West Point and Scoular at the Port of Richmond. Eric Wenberg, Executive Director of the Soya and Specialty Grains Alliance, also participated in the meetings and spoke about his organization's efforts to promote Identity-Preserved grains internationally. Office of Domestic Marketing (ODM) staff spoke to the group about grain marketing, grading, and the logistics of transporting grain from the farm to the export market.

In February, VDACS announced the 2020 round of funding for the competitive portion of the USDA Specialty Crop Block Grant Program. The agency anticipates administering nearly \$541,000 in grant funds for the development of specialty crops in the commonwealth. The deadline for submitting applications was extended by one week from March 23 to March 30 to allow for logistical flexibility due to the pandemic. Agricultural associations, industry and producer groups, community-based organizations, educational institutions, and non-profits were encouraged to apply as eligible applicants. Specialty crops are categorized as fruits, vegetables, tree nuts, dried fruits, and nursery crops, including floriculture, that are not typically covered by traditional crop insurance. Twenty-two applications were received requesting grant funds for a variety of purposes, including research, promotion, and marketing plans as well as food safety projects and projects that improve food access. Eleven of those 22 projects were selected by a review panel of industry specialists and presented to Commissioner Bronaugh to be included in Virginia's state plan. Pending approval by USDA, these projects will be announced in September and begin October 1, 2020. Since 2006, VDACS has granted more than \$5.9 million in funding through this program.

The VDACS Food Distribution Office received USDA funding to add 450 new participants to Virginia's Commodity Supplemental Food Program (CSFP). The additional funding will bring the total number of Virginia CSFP participants to 10,900. The CSFP works to improve the health of low-income people at least 60 years of age by providing a monthly box of nutritious USDA foods. The CSFP food package provides the nutrients typically lacking in the diets of older individuals. Foods include nonfat dry milk, juice, oats, ready-to-eat cereal, rice, pasta, peanut butter, dry beans, canned meat, poultry or fish, and canned fruits and vegetables. CSFP is offered in partnership with the Virginia Federation of Foodbanks. The food banks work with a variety of partners, including churches, senior housing complexes, and other non-profits, to distribute the food package to participants throughout their region.

From November through February, the Office of Promotions (OP) participated in and provided opportunities for Virginia's Finest companies to exhibit in a variety of venues, including AmericasMart in Atlanta, Georgia, (five companies); the Virginia Pavilion at Winter Fancy Food Show in San Francisco, California, (12 companies); and the Virginia Biological Farming Conference in Richmond.

In January and February, OP promoted Virginia Grown and provided market training in several regions around the state. OP staff worked with the state agritourism team in fall 2019 to develop this series of trainings. The trainings addressed issues such as food safety, display and presentation, social media, website development, accounting, and record keeping. Participants included market managers, existing market vendors, and new vendors.

OP worked with OC and the Virginia Tourism Corporation on the promotion of the inaugural Virginia's Farmers' Market Week, which concluded on May 3. The promotion highlighted the start of the 2020 market season and encouraged consumers and localities to support their local markets, many of which have adapted their operations to comply with current social distancing requirements by implementing pre-orders online and pick-up/delivery models. OP coordinated and participated in a visit to the Surry Farmers' Market with DMD and OC leadership to film the work of a farmers' market operating in a food desert.

In January and February, ODM exhibited at or attended the following events to promote Virginia products and network with producers and industry representatives:

- Mid Atlantic Nursery Trade Show in Baltimore, Maryland
- 2020 Southeast Fruit and Vegetable Conference in Savannah, Georgia
- Mid-Atlantic Fruit & Vegetable Convention in Hershey, Pennsylvania
- Eastern Shore Agricultural Conference and Trade Show in Melfa, Virginia
- Southeast Produce Council Southern Exposure 2020 Produce Convention and Expo in Tampa, Florida
- Virginia Corn and Soybean Conference in Richmond, Virginia

Since March, ODM staff has reviewed and processed 129 producer applications to participate in the Senior Farmers Market Nutrition Program (SFMNP). SFMNP's Farm Market Fresh programs helps eligible seniors get fresh, tasty, and nutritious locally grown fruit, vegetables, and cut herbs. The program also supports local farmers and farmers' markets in Virginia. ODM works closely with the Virginia Department of Aging and Rehabilitative Services to implement the program.

In January, ODM staff finished processing applications for the 2019 Organic Certification Cost Share Program (OCCSP). Funded through a grant from USDA, this year's OCCSP offered reimbursement to producers for allowable charges associated with organic certification incurred between October 1, 2018 and September 30, 2019. USDA required these funds to be committed by December 31, 2019. This year, the OCCSP provided almost \$29,000 worth of reimbursements to 37 producers across the Commonwealth.

In January, OIM and ODM staff participated in the 2020 Mid-Atlantic Nursery Trade Show. OIM staff met with participating Virginia nurseries to discuss VDACS's international programs, global representation, and opportunities that are available through the Southern United States Trade Association (SUSTA). SUSTA hosted a Canadian buyer group at the show, led by the VDACS Canada trade representative. During the show, Waynesboro Nursery secured a sale from a Canadian buyer. The trade representative is currently serving as a liaison between the nursery and the Canadian buyer to answer shipping questions. Because of the interest expressed by Virginia nurseries, Virginia will co-

manage a SUSTA inbound Canadian buyer mission in the summer of 2021 in cooperation with the Tennessee Department of Agriculture, utilizing funding from SUSTA.

In January, OIM hosted an inbound wood trade mission for log and lumber buyers from Europe and Latin America. The Europe trade representative recruited four buyers, and the Latin America trade representative recruited three buyers to participate. The participants visited 10 Virginia forestry product companies across the Commonwealth, including tours of Flippo Lumber Corporation in Doswell, Blue Ridge Lumber in Miller's Tavern, Northern Neck Lumber in Warsaw, and Teal-Jones in Kinsale. The international delegation of wood buyers included representatives from eight different Latin American and European companies. OAFD staff also participated in several of the tours. During the mission, two containers of hardwood were sold as well as and one container of pine. Follow up responses by just six of the 13 Virginia companies that were visited show an expected \$1.3 million in sales as a result of the mission. The actual sales will likely be much greater.

In February, the Europe trade representative supported five Virginia craft breweries at BrewLDN (formerly known as Craft Beer Rising) in London, England. The participating breweries exhibited in VDACS-sponsored booth space and included Port City Brewing Company (Alexandria), Hardywood Park Craft Brewery (Richmond), Adroit Theory Brewing Company (Purcellville), O'Connor Brewing Company (Norfolk), and Virginia Beer Company (Williamsburg). The breweries reported strong interest in their Virginia craft beer products. Several meetings were conducted with importers and distributors during the show. The trade representative is now following up with importers, and a significant possible opportunity is being negotiated for a Virginia beer event in Northern Ireland and The Republic of Ireland during July and August.

In March, VDACS co-hosted the Governor's Conference on Agricultural Trade with the Virginia Farm Bureau Federation, Virginia Port Authority, and Virginia Tech Department of Agricultural and Applied Economics. This year's conference featured a distinguished lineup of speakers who discussed the challenges and opportunities for global agricultural and forestry exports. OIM staff created an infographic to distribute at the conference that highlighted Virginia's top exports and trade partners based on 2019 data. The day after the conference, OIM staff hosted a half-day export seminar following the trade conference. The conference and export seminar were both well attended. There was quality discussion during the export seminar, and much information was shared among the participants.

In March, Beer52, a monthly beer subscription service in the United Kingdom, distributed a Virginia beer box that featured bottles purchased from five different Virginia breweries to its subscribers. Beer52 also publishes a magazine, Ferment, which it distributes with its subscription box. The Virginia beer box included an issue of Ferment that highlighted the five Virginia breweries represented in the box as well as several other Virginia distilleries, cideries, and wineries. OIM staff helped to coordinate the itinerary for the editor of Ferment when he visited Virginia earlier this year to gather content for the Virginia issue of the magazine. This project came together with the assistance of sponsorships from VDACS, the Virginia Tourism Corporation, and the Secretary of Agriculture and Forestry's Office. In total, Beer52 purchased 500,000 Virginia beers, with sales of approximately \$120,000 to \$140,000 for each of the participating breweries.

In May, PastryBase (Richmond), a specialty food company that creates baking mixes, reported a sale to a buyer in Dubai, United Arab Emirates. The initial sale is for \$4,728, with a second order of \$44,000

currently pending. PastryBase met the buyer when the company exhibited in VDACS-sponsored booth space at the Yummex Middle East trade show. OIM staff assisted PastryBase with necessary export certificates for its shipment of the purchased product to the United Arab Emirates

For the 2020-2021 school year, Food Distribution staff has ordered U.S. Department of Agriculture (USDA) foods with an entitlement value of \$20 million as part of the National School Lunch Program (NSLP). An additional \$10 million was committed to the Department of Defense Fresh Fruit and Vegetable Program for schools to receive fresh produce through the NSLP.

Division of Commodity Services

In January, Livestock Services (LS) staff exhibited at the 22nd Annual Ontario Cattle Feeders Convention in London, Ontario. The event attracted more than 400 cattle feeders. LS has had a presence at this convention since 2017 and has worked with cattle feeders in Ontario to provide substantive counseling regarding import permits and Virginia cattle. An estimated \$12 million of Virginia cattle have crossed the Canadian border in the last year. It is a challenge for Ontario cattle feeders to transport livestock from Western Canada, therefore buyers find importing U.S. cattle from the Eastern U.S. to be a feasible option.

In January, LS staff partnered with the Virginia Cattlemen's Association (VCA) to exhibit at multiple Virginia Forage and Grasslands Council meetings around the state. The joint exhibit promoted the Virginia cattle industry and services provided by both VDACS and VCA. These types of exhibits provide staff with an opportunity to interact and build upon external client relations with Virginia cattle producers in a setting outside of the grading pen.

In February, Fruit and Vegetable staff participated in seed potato training on the Eastern Shore. The Division of Commodity Services (DCS) administers Virginia's Seed Potato Inspection Law. Virginia is currently home to approximately one dozen potato growers on the Eastern Shore, and DCS anticipates that three to four of these operations will require VDACS's inspection services this summer.

In May, at the request of the U.S. Egg Marketers Cooperative, Poultry and Egg staff certified the transloading of eggs produced and packaged at Cold Springs Farm in Wisconsin for export to Haiti. The certification took place at Lineage Logistics' Norfolk-Chesapeake facility. The program worked with USDA Agricultural Marketing Service on this activity.

Since December, Division of Commodity Services (CS) staff:

- Provided inspection services for approximately 2.42 million pounds of fresh apples and 20.7 million pounds of process apples;
- Inspected and certified commodities, including soybeans, soybean meal, soybean hull pellets and wheat, with an approximate total value of more than \$287 million destined for more than 26 countries;
- Provided inspection services on 229,800 pounds of pears and potatoes for the USDA commodity procurement program;
- Performed 11 Good Agricultural Practice (GAP) Audits;

- Inspected and certified approximately 124.4 million pounds of Farmers' Stock peanuts and regrades for the 2019 crop, approximately 85 million pounds of shelled and in-shell milled peanuts, and approximately 3.2 million pounds of imported peanuts from Argentina, Paraguay, and Nicaragua;
- Analyzed approximately 2,725 samples of peanuts for presence and levels of aflatoxin;
- Certified approximately 29.1 million pounds of various poultry parts for the USDA Feeding Program for School Lunch Products;
- Provided evaluation services to producers who marketed over 13,700 Virginia Quality Assured (VQA) feeder cattle. The VQA program has become one of the most recognized and valuable programs to producers and buyers;
- Provided evaluation services to producers on approximately 32,000 cattle and 176 lambs and goats, and provided evaluation services to a processor on 46 beef carcasses; and
- Conducted General Market Inspections on 300,000 pounds of fresh fruits and vegetables and Processed Food Inspections on over 2.1 million pounds of processed products.

Division of Animal and Food Industry Services (AFIS)

In 2019, 40 mares and one stallion were placed under quarantine for Contagious Equine Metritis (CEM) testing and treatment in Virginia. After testing negative for four foreign animal diseases at the USDA Import Quarantine, mares and stallions over two years of age imported to the U.S. from CEM infected countries must undergo a three-week (mare) to six-week (stallion) quarantine in their destination state. The testing and treatment protocol to prevent importation of the CEM agent is performed by accredited veterinarians and overseen by OVS staff at private farms in Virginia

Since July 1, 2019, OVS has conducted 58 animal shelter inspections. OVS is responsible for the inspection of all public and private animal shelters in the state and conducts inspections on a risk-based model, looking for compliance with sanitation, animal care, and recordkeeping statutes.

In May 2019, the Produce Safety Program (PSP) of ODF began conducting regulatory inspections on large produce farms covered under the federal Food Safety Modernization Act's Produce Safety Rule. To date, all farms classified as "large," which are now subject to regulatory inspections, have been inspected, and all have been found to be in compliance. On March 23, 2020, the PSP received a revised notice of grant award that restricts all activities that involve face-face interaction under the grant due to the COVID-19 pandemic. This applies to inspections, on-farm readiness reviews, on-farm education or technical assistance activities, and any in-person education and outreach activities, including trainings. This restriction applies regardless of the authority being used to conduct inspections. This restriction will be in effect until further notice from the federal government. The PSP expects to begin conducting regulatory inspections of small covered farms while also continuing inspections of large covered farms this month if COVID-19 restrictions are lifted. PSP staff will also continue to conduct educational visits, called On-Farm Readiness Reviews, for small and very small farms until inspections begin in May 2020 and May 2021, respectively. These visits are conducted jointly by PSP staff and VCE agents and are designed to assist and educate farmers. The PSP continues to offer outreach to industry stakeholders and associations.

From October through March, the ODF Dairy Services Program conducted 786 inspections of Grade "A" and manufactured-grade dairy farms and 196 inspections of retail frozen dessert establishments. To

ensure compliance with Virginia's regulatory standards, program staff collected 2,309 milk samples from Virginia Grade "A" dairy farms. Five hundred sixty-seven (567) cheese and frozen dessert samples were also collected to determine compliance with current dairy laws and regulations. Inspectors also made 2,062 farm visits to review construction of dairy facilities, to review the installation of milking equipment and other related items, and to offer advice and assistance to dairy farmers and manufactured milk processors.

From October through April, the ODF Food Safety Program performed the inspections necessary to open 666 new food businesses. A total of 1,298 hours were spent working with vendors to open these firms. The Food Safety Program has an inventory of 13,141 firms under inspection. Twenty-four Food Safety Specialists, two Food Technical Specialists, and three Field Supervisors are responsible for the regulatory oversight of these firms. During the same period, the ODF Food Safety Program conducted 4,522 inspections of food establishments (which includes retail food stores, food manufacturers, and food warehouses), investigated 274 consumer complaints, and collected 533 food samples.

Since December, the Office of Meat and Poultry Services (OMPS) met with several individuals and companies interested in obtaining a Grant of Inspection to produce meat and poultry products that can be sold to consumers. The most notable new establishment is the Virginia State University mobile slaughter unit, which is now operational and operating under a Custom Permit of Exemption. VSU is expecting to operate the unit under a Grant of Inspection this year. This mobile slaughter unit is a trailer that can be moved to various locations to slaughter and process goats, sheep, and poultry.

Since January, OMPS enforcement officers have reported 12 apparent violations of the Virginia Slaughterhouses, Meat, and Dressed Poultry Act (Act). There were 10 detentions of product in commerce suspected of being produced in violation of the Act (without inspection). A total of 1,452 pounds of product were detained. Officers conducted 18 investigations. Five case files remain open. All remaining violations were closed with a Notice of Warning. In addition to these violations, Russell Meats has had their inspection suspended due to inspector intimidation, and Donald's Meats had operations suspended due to a humane handling issue. Donald's Meats is currently operating, and the suspension is being held in abeyance for a 90-day evaluation period. Three establishments have voluntarily withdrawn from inspection due to lack of sales and difficulty finding employees.

In January, OVS staff and the USDA Animal Identification Coordinator (AIC) attended the Christiansburg Livestock Market to observe ongoing sanitation issues as well as to discuss the failure by market management to ensure the official identification of adult breeding animals returning to farms. The USDA-AIC and OVS staff also monitored incoming livestock for out-of-state consignments. The following day, they met to discuss the observations made at Christiansburg Market and form a plan of action for correcting the deficiencies.

In January, OVS staff participated in the 2020 Shepherds Symposium at Virginia Tech to provide an update on the Scrapie Eradication Program. Scrapie is a prion disease of sheep and goats and is one of USDA's main disease eradication efforts. In 2019, USDA cut funding to provide producers with official scrapie identification tags and discontinued the distribution of free metal tags. The sheep and goat industry has the best animal disease traceability because of its official identification efforts. It was emphasized that even with the low incidence of scrapie nationwide and the cost of tags transferred to producers, now is not the time to stop identifying sheep and goats with official scrapie identification

tags.

In January, the OVS Program Manager participated in a conference call with OMPS, ODF, and representatives from the USDA Food Safety Inspection Service to discuss Saba Halal Live Poultry, a retail halal butcher shop that slaughters chickens on-site, which was recently approved to open in the City of Alexandria. The focus of the conversation was to assure that everyone understood the regulatory and inspection requirements for the market. The market opening has proved highly controversial locally, with at least one unsuccessful lawsuit aimed at blocking its opening. OMPS will regulate sanitation with at least one annual inspection, and OVS will regulate avian influenza testing with quarterly inspections and testing. The facility is exempt from daily inspections.

In February, the Wytheville Regional Animal Health Laboratory (RAHL) added bacteriology, virology, and parasitology testing for seven different diseases of cold-water fish raised in Virginia. Approximately 23 lots of fish (each containing 60 fish) were tested. This work was done in conjunction with the Virginia Department of Game and Inland Fisheries (DGIF) and the interstate movement certification for its five in-state hatcheries. The testing has proved to be a great success, and there are plans to expand in the future to provide services to private fish producers located in the Commonwealth and neighboring states.

Division of Consumer Protection (DCP)

The Office of Pesticide Services (OPS) was notified that it had been awarded a \$55,060 grant from the U.S. Environmental Protection Agency (EPA) MultiPurpose Grant Program. Multipurpose funds are intended to be used at state and tribal discretion for high-priority activities to complement activities funded under established environmental statutes. OPS will utilize these funds to upgrade the current platform for existing electronic inspection forms (eForms). Initial funding for the eForms project was provided by EPA Region 3 to allow for the collection and storing of inspection and investigation data electronically, thereby reducing redundancy in data entry and allowing for more consistency in data collection and accuracy. In addition, the project enhanced reporting capabilities and information exchange between states and EPA. The new platform, built to a broader format, is much more intuitive and user and designer friendly and will be the base for all future upgrades and revisions.

For the 2019 program year, the OPS Pesticide Collection Program removed 26,807 pounds of unwanted or outdated pesticides, bringing the total pesticides collected and disposed of since the pesticide collection program's inception to 1.5 million pounds. The 2019 Plastic Pesticide Container Recycling Program granulated a total of 129,561 pounds of plastic, bringing the total plastic recycled since the program's inception to more than two million pounds.

In February, OPS staff mailed 3,043 pesticide business license renewals, including 373 combined business license/fertilizer license renewals. All pesticide businesses that sell, store, distribute, mix, or apply pesticides or recommend pesticides for use in Virginia are required to be licensed. All pesticide business licenses expire annually on March 31.

In May, OPS mailed renewal applications to approximately 7,500 currently certified pesticide applicators, including both commercial applicators and registered technicians. While the renewal date has been extended from June 30 to August 29, pesticide applicators who have completed the required

recertification course are encouraged to complete and submit their applications. Although some required courses have been cancelled or postponed, others have been transformed into virtual recertification courses. There are also online courses available for the vast majority of certification categories that can be completed to meet the recertification requirement.

As of May 1, OPS had registered 15,640 new and renewing pesticides for use in the Commonwealth for calendar year 2020. This represents approximately 98 percent of the total products registered for calendar year 2019 and is a normal fluctuation in the annual number of products registered. OPS continues to receive new pesticide product registrations as well as late submissions. All pesticide product registrations expire December 31 of each year.

In 2019, Office of Plant Industry Services (OPIS) staff conducted 54 drone flights, totaling 9.78 hours of flight time. The drone flights were utilized to survey 914 acres for symptoms of various plant pests, including Boxwood Blight, Sudden Oak Death, Thousand Cankers Disease, and imported fire ants. The drone flights assist the inspector in identifying problem areas for additional follow-up inspections.

In December, OPIS staff completed the 2019 cotton boll weevil survey. OPIS staff serviced 961 traps on approximately 100,700 acres of cotton. No cotton boll weevils were detected. Virginia's cotton growers were assessed \$0.40 per acre in 2019 to fund cotton boll weevil surveys. Of this assessment, \$0.25 per acre provided funding for Virginia's cotton boll weevil survey and \$0.15 per acre went to the National Boll Weevil Protection Fund program. All cotton-growing states are participating in this national program intended to promote the control and elimination of the cotton boll weevil in the Lower Rio Grande Valley area of southern Texas, which is the only area of the U.S. where the cotton boll weevil is found. The cotton boll weevil assessment rate for 2020 will be \$0.50 per acre, which includes \$0.25 per acre for the Virginia cotton boll weevil survey program and \$0.25 per acre for the National Boll Weevil Protection Fund.

In January, staff from the Division of Consumer Protection (DCP) participated in the Southern Cotton Growers annual meeting in Savannah, Georgia. The Southern Cotton Growers held a special session during its meeting to discuss decreased germination rates for cotton seed. Some cotton producers have experienced poor cotton germination rates over the past several years. The North Carolina Department of Agriculture & Consumer Services (NCDA&CS) gave a presentation on a voluntary program implemented in North Carolina in which cotton seed companies will provide advance notification to NCDA&CS on cotton seed shipments so that NCDA&CS can conduct seed germination tests before the seed is planted. VDACS routinely tests cotton seed each year to verify compliance with labeled germination rates. Test results from VDACS's Seed Laboratory have not shown low cotton seed germination rates in Virginia. DCP staff also attended a Virginia Farm Bureau Federation meeting in March in Smithfield to further discuss this issue with Virginia's cotton producers.

In January, OPIS staff participated in the 28th Virginia Association of Forest Health Professionals conference in Glen Allen. Topics of discussion included spotted lanternfly, invasive species in Virginia, soil organisms and forest health, fire ants, and giant hogweed. OPIS staff provided an update on VDACS's activities regarding spotted lanternfly in Virginia. Approximately 185 attendees representing research institutions; extension agents; landowners; industry; and state, local, and federal governments participated in the conference.

In February, OPIS staff mailed letters to Virginia's registered industrial hemp growers to notify them that EPA has approved 10 pesticides for use on hemp. The letter also contained information on a new disease affecting industrial hemp that was discovered in Virginia. The disease, *Uredo kriegeana*, is a rust pathogen causing orange pustules on the underside of leaves and small, brown, necrotic lesions on the upper side of leaves. Information related to *Uredo kriegeana* is limited at this time, and strategies for the prevention and treatment, and its potential impact on hemp productivity, is unknown. Detection of *Uredo kriegeana* in Virginia is the first known occurrence of the disease in the U.S.

As of February 14, OPIS has exhausted the funds appropriated for the 2019 Beehive Distribution Program. OPIS awarded 1,022 beehive units to 375 individuals. OPIS began accepting applications for the 2019 Beehive Distribution Program on July 1. Due to the overwhelming number of online applications received, OPIS ceased accepting applications the afternoon of July 1, as the estimated cost of the beehive equipment for the applications submitted was anticipated to exceed the \$125,000 appropriation for the Beehive Distribution Program. The program provides individuals with up to three beehive units in an effort to increase the number of honeybee hives throughout Virginia.

In February, approximately 28 members of the Urban Forest Strike Team (UFST) assisted OPIS staff in efforts to control the Spotted Lanternfly (SLF) by conducting tree inventories of *Ailanthus altissima* (Tree of Heaven). The UFST is a self-contained team of trained certified arborists from state forestry agencies and the USDA Forest Service who respond to natural disasters and conduct tree risk assessment data collection. State agency participants included VDACS, Virginia Department of Forestry, and Virginia Department of Transportation staff. The collaborative week-long deployment resulted in completing inventories for three priority sites and the entire Interstate-81 corridor. Over 12,800 Tree of Heaven trees were inventoried for pesticide treatments as a part of the USDA SLF treatment program.

In February, staff from the Division of Consumer Protection participated in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan (WIP) Interagency Team meeting in Richmond. Representatives from the Department of Environmental Quality (DEQ), Department of Conservation and Recreation, Department of Forestry, and Department of Health participated in the meeting. Information was provided on numeric and programmatic milestones and the verification of implemented best management practices. DEQ also reported that comments on the Chesapeake Bay 2020-2021 Programmatic Milestones can be provided from March 9-April 7. Comments must be submitted to DEQ via its website.

In February, VDACS hosted the annual Board of Directors (BOD) meeting of the Gypsy Moth Slow the Spread (STS) Foundation in Richmond. The BOD received updates on the 2019 gypsy moth treatment and survey programs and plans for 2020. The meeting was attended by representatives from Illinois, Indiana, Kentucky, Minnesota, North Carolina, Ohio, Wisconsin, USDA Forest Service, and USDA Animal and Plant Health Inspection Service. The STS program plans to treat approximately 4,970 acres using *Bacillus thuringiensis* and 25,000 acres using a mating disruptant in Virginia in 2020. Treatment acreage may change as the 2020 STS budget is finalized.

In March, OPIS staff participated in the 2nd Annual Spotted Lanternfly (SLF) Summit and the SLF Operations Meeting in Harrisburg, Pennsylvania. The SLF Summit brings together research institutions, state and federal regulatory agencies, industry professionals, education professionals, and

communications groups to discuss SLF. The goal of the meeting is to provide all parties involved with updates on research topics, changes in regulatory programs, updates on new or expanded SLF quarantines, additional tools and updated survey methods, and program updates on the USDA SLF program. The SLF Operations Meeting provided program updates and new field techniques to state cooperators and USDA staff who are actively treating for SLF in their respective states. The meeting also allowed states the opportunity to share their concerns, challenges in implementing a new SLF program, updates on state treatment programs, and survey efforts. Approximately 190 people attended.

In March, OPIS staff issued stop sale notices in Alexandria, Harrisonburg, Gainesville, Gordonsville, Galax, Wytheville, and South Boston for boxwood plants that were infected with boxwood blight, which is caused by a fungal pathogen that can severely damage boxwood plants. Traceback investigations by OPIS determined that the infected boxwood had originated in the same West Coast nursery. OPIS staff is continuing to inspect retail nursery dealers for any further signs of the disease. OPIS notified agriculture officials in the state where the plants originated of the boxwood blight detections.

In April, OPIS staff observed the first confirmed hatch of Spotted Lanternfly (SLF) egg masses in Frederick County. OPIS staff has begun treating newly hatched nymphs with Golden Pest Spray Oil in efforts to reduce populations in the generally infested area. OPIS staff has treated approximately 900 egg masses at 13 priority sites. Priority sites are those that pose an increased risk of SLF being transported out of the infested area, including rest stops, construction sites, and along the rail line. SLF feeds on more than 70 plant species, including grapes, apples, stone fruits, hops, and *Ailanthus altissima* (Tree of Heaven), which is its preferred host. It poses a threat to Virginia's peach, apple, grape, and wine industries. SLF can also be a nuisance pest to homeowners when numbers are high. The Board of Agriculture and Consumer Services established a permanent SLF quarantine in July 2019 for Frederick County and the City of Winchester.

In April, OPIS staff met with a lumber company located in Winchester to discuss best management practices to ensure that its products and business practices are in compliance with the SLF quarantine. During a previous site inspection, an SLF egg mass was found on a nearby tree line adjacent to the company's property. The lumber company has started implementing best management practices, which include removing the Tree of Heaven in the nearby tree line and removing egg masses to kill the SLF eggs. Tree of Heaven is SLF's preferred host.

On April 20, OPIS received notification from the USDA-Animal and Plant Health Inspection Service (APHIS) that the plant pathogen *Ralstonia solanacearum* Race 3, biovar 2 (ralstonia) had been identified on geranium plants in the U.S. for the first time since 2004. The geraniums were imported from a facility in Guatemala and shipped to various locations in the U.S., including nine nurseries (greenhouses) in Virginia. *Ralstonia* is a soil-borne bacteria that causes bacterial wilt diseases that can lead to plant death or reduced crop yields in geraniums, tomatoes, peppers, potatoes, and other solanaceous crops. OPIS subsequently received notification of one additional greenhouse that received suspect geraniums. As of May 1, OPIS staff had contacted all greenhouse sites that received suspect geraniums as part of the *Ralstonia* trace forward investigation. In total, OPIS and USDA-APHIS issued stop sale orders at 10 greenhouses and destroyed approximately 415 geranium plants and more than 6,800 plants that were suspect for being contaminated with the plant pathogen. All 10 greenhouses followed USDA-APHIS guidelines for decontamination in an effort to disinfect any contaminated

surface or infection pathway. OPIS staff will continue to monitor the 10 greenhouses to ensure no other plants were infected with ralstonia.

In April, Office of Charitable and Regulatory Programs (OCRP) staff participated in a conference call hosted by the National Association of State Charity Officials. The conference call focused on updates to cases taken by multiple states against charities for breaching fiduciary responsibilities and fraudulent activities. The conference call also discussed an increase in robo-calls that appear to be coming from overseas and focused on COVID-19 related issues, such as providing relief to veterans impacted by the virus and fake test kits.

On May 4, OCRP issued 2,604 renewal notices to prepaid legal plan sellers and 604 renewal notices to registered health clubs whose registrations will expire on June 30. This is the second set of renewal notifications sent to the sellers and health clubs. OCRP issues renewal notices to registered sellers 90 days, 60 days, and 30 days from the registration expiration date. The renewal notice sent to health clubs also included information pertaining to Chapter 628 of the 2020 Acts of Assembly, which requires all registered health clubs to have a working automated external defibrillator at the club's location.

CONSTITUENT/CUSTOMER ISSUES

In February, the Customs Tariff Commission of the State Council, the Chinese agency responsible for making adjustment to and interpretation of tariff items, tariff headings, and duty rates, announced that it will open a process for Chinese companies to apply for retaliatory tariff exemptions. To secure an exemption, companies registered to conduct business in China must file an application and specify the amount of product they plan to import from the U.S. under a given tariff code. If granted, the Chinese retaliatory tariffs currently in effect would no longer apply against that company's imports of that specific product up to the authorized volume of imports for one year from the date of approval. The Tariff Committee expects that these exemptions will encourage imports and help fulfill China's purchasing agreements under the Phase One trade deal. These announcements are good news for the Virginia forest products industry, including the 20-plus known hardwood log and lumber exporters. This gives the companies optimism for a return to former export volumes and market values for the products. Further, the State Council Tariff Commission released a list of goods on which tariffs will no longer be levied and indicating that importers are eligible for refunds. Several U.S. hardwood products were on this list, including oak lumber and logs, cherry and ash lumber, and "other" hardwood lumber and logs.

VDACS Market News reports higher hay prices as a result of shortages. Hay supplies throughout the state are down due to drought conditions earlier in the year. Although late rain improved pasture conditions, it was too late to impact late cuttings of hay. As a result, hay supplies are light and prices are rising. The 2019 annual average price of hay sold at auction is approximately 20 to 30 percent higher than the five-year average and 30 to 40 percent higher than the 10-year average. Market News will publish the next issue of the Virginia Hay Clearing House newsletter in March. The publication serves as a tool to bring together buyers and sellers of hay and helps livestock producers locate hay during times of shortages.

In February, Dean Foods released a list of assets that would be purchased by Dairy Farmers of America

Inc. (DFA), pending approval following a federal review. On November 12, Dean Foods filed for bankruptcy. Approximately 30 percent of milk sold in Virginia is processed by Dean Foods-owned plants. All locations that serve Virginia would be included in the purchase agreement with the exception of one plant that serves southwestern and western Virginia.

The agency will respond to future requests for pesticide sample analysis related to active investigations by notifying the requestor that Va. Code § 3.2-103 requires the Commissioner to hold that records of active investigations in confidence until the investigation is closed, unless otherwise directed by the Governor or the Board of Agriculture and Consumer Services (Board). The notification to the requestor will include contact information for the Secretary of the Board.

Project 5895

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Food Code Update**

**CHAPTER 585
RETAIL FOOD ESTABLISHMENT REGULATIONS**

2VAC5-585-20. Food safety, illness prevention, and honest presentation.

The purpose of this ~~regulation~~ chapter is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

2VAC5-585-30. Statement.

This ~~regulation~~ chapter establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for ~~inspection~~ inspection, food establishment plan review, and employee restriction.

**Article 2
Definitions**

2VAC5-585-40. Definitions.

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

"Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals. "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, recertification, discipline, and grievance procedures; and test development and administration. "Accredited program" does not refer to training functions or educational programs.

"Additive" means either a (i) "food additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 USC § 321(s) and 21 CFR 170.3(e)(1) or (ii) "color additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 USC § 321(t) and 21 CFR 70.3(f).

"Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 USC § 342.

"Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Approved water system" means a permitted waterworks constructed, maintained, and operated pursuant to 12VAC5-590 or a private well constructed, maintained, and operated pursuant to 12VAC5-630.

"Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. "Asymptomatic" includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

"A_w" means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol A_w.

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

"Beverage" means a liquid for drinking, including water.

~~"Board" means the Board of Agriculture and Consumer Services.~~

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"CFR" means Code of Federal Regulations. Citations in this chapter to the CFR refer sequentially to the title, part, and section numbers. For example, 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

"CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"Commingle" means:

1. To combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or
2. To combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. "Comminuted" includes (i) fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage and (ii) a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, his duly designated officer, or his agent.

"Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Core item" means a provision in this chapter that is not designated as a priority item or a priority foundation item. "Core item" includes an item that usually relates to general sanitation, operational controls, sanitation standard operating ~~procedures~~, procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

"Corrosion-resistant materials" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of a shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Disclosure" means a written statement that clearly identifies the animal-derived foods that are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not time/temperature control for safety food and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;
2. Is dependent on the material, design, construction, and installation of the surface; and
3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

"Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified above in this definition to different situations in which varying degrees of cleanability are required such as:

1. The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or
2. The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

"Easily movable" means:

1. Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. "Egg" does not include a balut, egg of the reptile species such as alligator, or an egg product.

"Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen, or liquid eggs. "Egg product" does not include food that contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the operator, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a food establishment, such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. "Equipment" does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans, ~~and~~ other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or ~~mammals~~; mammals, and all mollusks, if such animal life is intended for human consumption; and includes ~~any~~ an edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

"Food" means (i) a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or (ii) chewing gum.

"Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

"Food-contact surface" means a surface of equipment or a utensil with which food normally comes into contact, or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food establishment" means an operation that (i) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption (i) such as a market, restaurant, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, vending location, conveyance used to transport people, institution, or food bank and (ii) ~~that~~ relinquishes possession of a food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

"Food establishment" includes (i) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or satellite feeding location is inspected by the regulatory authority and (ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location where consumption is on or off the premises.

"Food establishment" does not include:

1. An establishment that offers only prepackaged foods that are not time/temperature control for safety foods;
2. A produce stand that only offers whole, uncut fresh fruits and vegetables;
3. A food processing plant, including those that are located on the premises of a food establishment;
4. A food warehouse;
5. A kitchen in a private home; or
6. A private home that receives catered or home delivered food.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants or food establishments. "Food processing plant" does not include a "food establishment."

"Game animal" means an animal, the products of which are food, that is not classified as (i) livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2; (ii) poultry; or (iii) fish. "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes. "Game animal" does not include ratites.

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

"Grade A standards" means the requirements of the Grade "A" Pasteurized Milk Ordinance, ~~2013~~ 2017 Revision, (U.S. Food and Drug Administration) with which certain fluid and dry milk and milk products comply.

"HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of hands. "Handwashing sink" includes an automatic handwashing facility.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are (i) immunocompromised; preschool age children, or older adults; and (ii) obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Injected" means manipulating meat to which a solution has been introduced into its interior by processes ~~such as that are referred to as~~ "injecting," "pump marinating," or "stitch pumping."

"Intact meat" means a cut of whole muscle meat that has not undergone comminution, vacuum tumbling with solutions, mechanical tenderization, or reconstruction.

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. "Juice" does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and federal statutes, regulations, and ordinances.

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments, including cloth gloves.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans or a food ingredient that contains protein derived from one of these foods. "Major food allergen" does not include (i) any highly refined oil derived from a major food allergen in this definition and any ingredient derived from such highly refined oil or (ii) any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (P.L. 108-282).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under 2VAC5-585-330 A 2 and 3.

"Mechanically tenderized" means manipulating meat with deep penetration by processes that may be referred to as "blade tenderizing," "jaccarding," "pinning," "needling," or using blades, pins, needles or any mechanical device. "Mechanically tenderized" does not include processes by which solutions are injected into meat. by piercing with a set of needles, pins, blades, or any mechanical device that breaks up muscle fiber and tough connective tissue to increase tenderness. This includes injection, scoring, and processes that may be referred to as "blade tenderizing," "jaccarding," "pinning," or "needling."

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

"Noncontinuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. "Noncontinuous cooking" does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

"Operator" means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person.

"Packaged" means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant. "Packaged" does not include wrapped or placed

in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. "Personal care items" include items such as medicines, first aid supplies, and other items such as cosmetics and toiletries such as toothpaste and mouthwash.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7.0 indicate acidity and values between 7.0 and 14 indicate alkalinity. The value for pure distilled water is 7.0, which is considered neutral.

"Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

1. Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
2. Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Potable water" means water fit for human consumption that is obtained from an approved water supply and that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the person served. Potable water is traditionally known as drinking water and excludes such nonpotable forms as boiler water, mop water, rainwater, wastewater, and nondrinking water.

"Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1 and any migratory waterfowl, game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1.

"Premises" means the physical facility, its contents, and the contiguous land or property under the control of the operator or the physical facility, its contents, and the land or property not described above if its facilities and contents are under the control of the operator and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

"Priority foundation item" means a provision in this chapter whose application supports, facilitates, or enables one or more priority items. "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or recordkeeping, and labeling and is denoted in this chapter with a superscript P^{Pf}.

"Priority item" means a provision in this chapter whose application contributes directly to the elimination, prevention, or reduction to an acceptable level of hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, and handwashing and is denoted in this chapter with a superscript P^P.

~~"Priority foundation item" means a provision in this chapter whose application supports, facilitates, or enables one or more priority items. "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or recordkeeping, and labeling and is denoted in this chapter with a superscript P^{Pf}.~~

"Private well" means any water well constructed for a person on land that is owned or leased by that person and is usually intended for household, groundwater source heat pump, agricultural use, industrial use, or other nonpublic water well.

"Pure water" means potable water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served. ~~Potable water is traditionally known as drinking water and excludes such nonpotable forms as boiler water, mop water, rainwater, wastewater, and nondrinking water.~~

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Ready-to-eat food" means food that:

1. (i) Is in a form that is edible without additional preparation to achieve food safety, as specified under 2VAC5-585-700 A, B, and C; 2VAC5-585-710; or 2VAC5-585-730; (ii) is a raw or partially cooked animal food and the consumer is advised as specified under 2VAC5-585-700 D 1 and D 3; or (iii) is prepared in accordance with a variance that is granted as specified under 2VAC5-585-700 D 4; and
2. May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" includes:

1. Raw animal food that is cooked as specified under 2VAC5-585-700 or 2VAC5-585-710, or frozen as specified under 2VAC5-585-730;
2. Raw fruits and vegetables that are washed as specified under 2VAC5-585-510;
3. ~~Fruits and vegetables~~ Plant food that are is cooked for hot holding as specified under 2VAC5-585-720;

4. All time/temperature control for safety food that is cooked to the temperature and time required for the specific food under Article 4 (2VAC5-585-700 et seq.) of Part III of this chapter and cooled as specified in 2VAC5-585-800;
5. Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed;
6. Substances derived from plants such as spices, seasonings, and sugar;
7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
8. The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
9. Food manufactured ~~according to~~ as specified in 21 CFR Part 113.

"Reduced oxygen packaging" means (i) the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and (ii) a process as specified in clause (i) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

"Reduced oxygen packaging" includes:

1. Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;
2. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air, but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;
3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;
4. Cook chill packaging, in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens; or
5. Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means local, state, or federal enforcement body or their authorized representative having jurisdiction over the food establishment.

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Reservice" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR Part 590.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 and that is limited to use by or under the direct supervision of a certified applicator.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" means an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in § 409 of the Federal Food, Drug, and Cosmetic Act (21 USC § 348); or other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a 5-log reduction, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

"Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution. "Sewage" includes water-carried and non-water-carried human excrement or kitchen, laundry, shower, bath, or lavatory waste separately or together with such underground surface, storm, or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments, or other places.

"Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shiga toxin-producing Escherichia coli" or "STEC" means any E. coli capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild nonbloody diarrhea to hemorrhagic colitis (i.e., bloody diarrhea) to hemolytic uremic syndrome (HUS), which is a type of kidney failure. Examples of serotypes of STEC include: E. coli O157:H7, E. coli O157:NM, E. coli O26:H11, E. coli O145:NM, E. coli O103:H2, and E. coli O111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic E. coli) or as EHEC (enterohemorrhagic E. coli). EHEC are a subset of STEC that can cause hemorrhagic colitis or HUS.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength, and cleanability specifications under 2VAC5-585-960, 2VAC5-585-1080, and 2VAC5-585-1100 for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number three stainless steel; a nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Temporary food establishment" means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

"Time/temperature control for safety food" or "TCS" (formerly "potentially hazardous food") means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation:

1. "Time/temperature control for safety food" includes an animal food that is raw or heat treated; a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and except as specified in subdivision 2 d of this definition, a food that because of the interaction of its A_w and pH values is designated as product assessment required (PA) in Table A or B of this definition:

Table A. Interaction of pH and A_w for control of spores in food heat treated to destroy vegetative cells and subsequently packaged.			
A_w values	pH values		
	4.6 or less	>4.6 - 5.6	>5.6
≤0.92	non-TCS food*	non-TCS food	non-TCS food
>0.92 - 0.95	non-TCS food	non-TCS food	PA**
>0.95	non-TCS food	PA	PA
*TCS means time/temperature control for safety food			
**PA means product assessment required			

Table B. Interaction of pH and A_w for control of vegetative cells and spores in food not heat treated or heat treated but not packaged.				
A_w values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
<0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 - 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
>0.90 - 0.92	non-TCS food	non-TCS food	PA	PA
>0.92	non-TCS food	PA	PA	PA

*TCS means time/temperature control for safety food
**PA means product assessment required

2. "Time/temperature control for safety food" does not include:

- a. An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard boiled, but has been pasteurized to destroy all viable salmonellae;
- b. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
- c. A food that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-TCS food in Table A or B of this definition;
- d. A food that is designated as PA in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
 - (1) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;
 - (2) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf-life and use, or temperature range of storage and use; or
 - (3) A combination of intrinsic and extrinsic factors; or
- e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subdivisions 2 a through 2 d of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single service, or single use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

"Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by electronic transaction or optional manual operation, dispenses unit

servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

"Waterworks" means a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. "Waterworks" includes all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of ~~potable~~ pure water except the piping and fixtures inside the building where such water is delivered.

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

Part II
Management and Personnel

Article 1
Supervision

2VAC5-585-50. Assignment.

A. Except as specified in subsection B or C of this section, the operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.^{Pf}

B. In a food establishment with two or more separately inspected departments that are the legal responsibility of the same operator and that are located on the same premises, the operator may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately inspected food establishment on the premises.^{Pf}

C. This section does not apply to certain types of food establishments deemed by the department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and the extent of the food preparation.^{Pf}

Statutory Authority

2VAC5-585-65. Certified food protection manager.

A. ~~[July 2019 amendment: At least one employee who has supervisory and management responsibility and the authority to direct and control food preparation and service~~ The person in charge] [May 2020 amendment (return to existing language): At least one employee who has supervisory and management responsibility and the authority to direct and control food preparation and service] shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

B. The person in charge shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. For purposes of enforcing this subsection, this requirement will take effect two years after the effective date of this amendment.

C. This section does not apply to certain types of food establishments deemed by the regulatory authority department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation.

~~C. For purposes of enforcing this section, this requirement will take effect July 1, 2018.~~

2VAC5-585-67. Food protection manager certification.

A. A person in charge who demonstrates knowledge by being a food protection manager ~~and who~~ is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, 2018, (Conference for Food Protection) is deemed to comply with subdivision 2 of 2VAC5-585-60.

B. A food establishment that has ~~an employee~~ a person in charge who is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, 2018, (Conference for Food Protection) is deemed to comply with 2VAC5-585-65.

Article 2 Employee Health

2VAC5-585-80. Responsibility of operator, person in charge, and conditional employees.

A. The operator shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

1. Has any of the following symptoms:

- a. Vomiting;^P
- b. Diarrhea;^P
- c. Jaundice;^P
- d. Sore throat with fever;^P or
- e. A lesion containing pus such as a boil or infected wound that is open or draining and is:
 - (1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;^P
 - (2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover;^P or
 - (3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;^P

2. Has an illness diagnosed by a health practitioner due to:

- a. Norovirus;^P
- b. Hepatitis A virus;^P
- c. Shigella spp.;^P
- d. Shiga toxin-producing Escherichia coli; ^P
- e. Typhoid fever (caused by Salmonella typhi);^P or
- f. Salmonella (nontyphoidal);^P

3. Had typhoid fever, diagnosed by a health practitioner, within the past three months ~~due to Salmonella typhi~~, without having received antibiotic therapy, as determined by a health practitioner;^P

4. Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
 - a. Norovirus within the past 48 hours of the last exposure;^P
 - b. Shiga toxin-producing *Escherichia coli*, or *Shigella* spp. within the past three days of the last exposure;^P
 - c. Typhoid fever within the past 14 days of the last exposure;^P or
 - d. Hepatitis A virus within the past 30 days of the last exposure;^P or
 5. Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:
 - a. Norovirus within the past 48 hours of the last exposure;^P
 - b. Shiga toxin-producing *Escherichia coli* or *Shigella* spp. within the past three days of the last exposure;^P
 - c. Typhoid fever (caused by *Salmonella typhi*) within the past 14 days of the last exposure;^P or
 - d. Hepatitis A virus within the past 30 days of the last exposure.^P
- B. The person in charge shall notify the department when a food employee is:
1. Jaundiced;^{Pf} or
 2. Diagnosed with an illness due to a pathogen as specified under subdivisions A 2 a through f of this section.^{Pf}
- C. The person in charge shall ensure that a conditional employee:
1. Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under subdivisions A 1 through 3 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 2VAC5-585-100;^P and
 2. Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under subdivisions A 4 and 5 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria specified under subdivision 10 of 2VAC5-585-100.^P
- D. The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under subsection A of this section is:
1. Excluded as specified under subdivisions 1 through 3 and 4 a, 5 a, 6 a, 7, or 8 a of 2VAC5-585-90 and in compliance with the provisions specified under subdivisions 1 through 8 of 2VAC5-585-100;^P or
 2. Restricted as specified under subdivision 4 b, 5 b, 6 b, 8 b, 9, or 10 of 2VAC5-585-90 and in compliance with the provisions specified under subdivisions 4 through 10 of 2VAC5-585-100.^P
- E. A food employee or conditional employee shall report to the person in charge the information as specified under subsection A of this section.^{Pf}
- F. A food employee shall:

1. Comply with an exclusion as specified under subdivisions 1 through 3 and 4 a, 5 a, 6 a, 7, or 8 a of 2VAC5-585-90, and with the provisions specified under subdivisions 1 through 8 of 2VAC5-585-100;^P or
2. Comply with a restriction specified under subdivision 4 b, 5 b, 6 b, 7, or 8 b of 2VAC5-585-90 or under subdivision 8, 9, or 10 of 2VAC5-585-90 and comply with the provisions specified under subdivisions 4 through 10 of 2VAC5-585-100.^P

2VAC5-585-100. ~~Removal~~ Removal, adjustment, or retention of exclusions and restrictions.

The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

1. Except when a food employee is diagnosed with typhoid fever or an infection from Hepatitis A virus:
 - a. Reinstatement a food employee who was excluded as specified under subdivision 1 a of 2VAC5-585-90 if the food employee:
 - (1) Is asymptomatic for at least 24 hours;^P or
 - (2) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.^P
 - b. If a food employee was diagnosed with an infection from Norovirus and excluded as specified under subdivision 1 b of 2VAC5-585-90:
 - (1) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population until the conditions for reinstatement as specified in subdivision 4 a or b of this section are met;^P or
 - (2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 4 a or b of this section are met.^P
 - c. If a food employee was diagnosed with an infection from Shigella spp. and excluded as specified under subdivision 1 b of 2VAC5-585-90:
 - (1) Restrict the food employee, who is asymptomatic, for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subdivision 5 a or b of this section are met;^P or
 - (2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (i) subdivision 5 a or 5 b of this section, or (ii) subdivisions 1 c (1) and 5 a of this section are met.^P
 - d. If a food employee was diagnosed with an infection from Shiga toxin-producing Escherichia coli and excluded as specified under subdivision 1 b of 2VAC5-585-90:
 - (1) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subdivision 6 a or b of this section are met;^P or
 - (2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 6 a or b are met.^P
 - e. If a food employee was diagnosed with an infection from Salmonella (nontyphoidal) and excluded as specified in subdivision 1 b of 2VAC5-585-90:

- (1) Restrict the food employee, who is asymptomatic, for at least 30 days until conditions for reinstatement as specified in subdivision 7 a or b of this section are met;^P
 - or
 - (2) Retain the exclusion for the food employee, who is symptomatic, until conditions for reinstatement as specified in subdivision 7 a or b of this section are met.^P
2. Reinstatement a food employee who was excluded as specified under subdivision 2 of 2VAC5-585-90 if the person in charge obtains approval from the department and one of the following conditions is met:
 - a. The food employee has been jaundiced for more than seven calendar days;^P
 - b. The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days;^P or
 - c. The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Hepatitis A virus infection.^P
3. Reinstatement a food employee who was excluded as specified under subdivision 3 of 2VAC5-585-90 if:
 - a. The person in charge obtains approval from the department;^P and
 - b. The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from typhoid fever.^P
4. Reinstatement a food employee who was excluded as specified under subdivision 1 b or 4 a of 2VAC5-585-90, who was restricted under subdivision 4 b of 2VAC5-585-90 if the person in charge obtains approval from the department and one of the following conditions is met:
 - a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;^P
 - b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic;^P or
 - c. The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.^P
5. Reinstatement a food employee who was excluded as specified under subdivision 1 b or 5 a of 2VAC5-585-90 or who was restricted under subdivision 5 b of 2VAC5-585-90 if the person in charge obtains approval from the department and one of the following conditions is met:
 - a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Shigella spp. infection based on test results showing two consecutive negative stool specimen cultures that are taken:
 - (1) Not earlier than 48 hours after discontinuance of antibiotics;^P and
 - (2) At least 24 hours apart;^P
 - b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven calendar days have passed since the food employee became asymptomatic;^P or

- c. The food employee was excluded or restricted and did not develop symptoms and more than seven calendar days have passed since the food employee was diagnosed.^P
6. Reinstate a food employee who was excluded or restricted as specified under subdivision 1 b or 6 a of 2VAC5-585-90 or who was restricted under subdivision 6 b of 2VAC5-585-90 if the person in charge obtains approval from the department and one of the following conditions is met:
 - a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Shiga toxin-producing Escherichia coli based on test results that show two consecutive negative stool specimen cultures that are taken:
 - (1) Not earlier than 48 hours after the discontinuance of antibiotics;^P and
 - (2) At least 24 hours apart;^P
 - b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven calendar days have passed since the food employee became asymptomatic;^P or
 - c. The food employee was excluded or restricted and did not develop symptoms and more than seven days have passed since the food employee was diagnosed.^P
7. Reinstate a food employee who was excluded as specified under subdivision 1 b of 2VAC5-585-90 or who was restricted under subdivision 7 of 2VAC5-585-90 if the person in charge obtains approval from the department^P and one of the following conditions is met:
 - a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Salmonella (nontyphoidal) infection based on test results showing two consecutive negative stool specimen cultures that are taken:
 - (1) Not earlier than 48 hours after discontinuance of antibiotics,^P and
 - (2) At least 24 hours apart;^P
 - b. The food employee was restricted after symptoms of vomiting or diarrhea resolved, and more than 30 days have passed since the food employee became asymptomatic;^P or
 - c. The food employee was excluded or restricted and did not develop symptoms and more than 30 days have passed since the food employee was diagnosed.^P
8. Reinstate a food employee who was excluded or restricted as specified under subdivision 8 a or b of 2VAC5-585-90 if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:
 - a. Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 hours;^P
 - b. Has at least one negative throat specimen culture for Streptococcus pyogenes infection;^P or
 - c. Is otherwise determined by a health practitioner to be free of Streptococcus pyogenes infection.^P
9. Reinstate a food employee who was restricted as specified under subdivision 9 of 2VAC5-585-90 if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

- a. An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;^P
 - b. An impermeable cover on the arm if the infected wound or pustular boil is on the arm;^P or
 - c. A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.^P
10. Reinstate a food employee who was restricted as specified under subdivision 10 of 2VAC5-585-90 and was exposed to one of the following pathogens as specified under 2VAC5-585-80 A 4 or 5:
- a. Norovirus and one of the following conditions is met:
 - (1) More than 48 hours have passed since the last day the food employee was potentially exposed;^P or
 - (2) More than 48 hours have passed since the food employee's household contact became asymptomatic.^P
 - b. Shigella spp. or Shiga toxin-producing Escherichia coli and one of the following conditions is met:
 - (1) More than three calendar days have passed since the last day the food employee was potentially exposed;^P or
 - (2) More than three calendar days have passed since the food employee's household contact became asymptomatic.^P
 - c. typhoid fever (caused by Salmonella typhi) and one of the following conditions is met:
 - (1) More than 14 calendar days have passed since the last day the food employee was potentially exposed;^P or
 - (2) More than 14 calendar days have passed since the food employee's household contact became asymptomatic.^P
 - d. Hepatitis A virus and one of the following conditions is met:
 - (1) The food employee is immune to Hepatitis A virus infection because of prior illness from Hepatitis A;^P
 - (2) The food employee is immune to Hepatitis A virus infection because of vaccination against Hepatitis A;^P
 - (3) The food employee is immune to Hepatitis A virus infection because of IgG administration;^P
 - (4) More than 30 calendar days have passed since the last day the food employee was potentially exposed;^P
 - (5) More than 30 calendar days have passed since the food employee's household contact became jaundiced;^P or
 - (6) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least 30 days after the potential exposure, as specified in subdivision 10 d (4) and (5) of this section, and the food employee receives additional training about:
 - (a) Hepatitis A symptoms and preventing the transmission of infection;^P
 - (b) Proper handwashing procedures;^P and
 - (c) Protecting ready-to-eat food from contamination introduced by bare hand contact.^P

2VAC5-585-180. Hand antiseptics.

A. A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

1. Comply with one of the following:

- a. Be an approved drug that is listed in the "Approved Drug Products with Therapeutic Equivalence Evaluations, ~~34th~~ 39th Edition," ~~2014,~~ 2019 (U.S. Food and Drug Administration) as an approved drug based on safety and effectiveness;^{Pf} or
- b. Have active antimicrobial ingredients that are listed in the FDA ~~tentative final~~ monograph for over the counter (OTC) Health-Care Antiseptic Drug Products, ~~59 FR 31402-31452 (June 17, 1994)~~ 82 FR 60474 (December 20, 2017) as an antiseptic handwash;^{Pf}

2. Consist only of components that the intended use of each complies with one of the following:

- a. A threshold of regulation exemption under 21 CFR 170.39; ^{Pf}
- b. 21 CFR Part 178, as regulated for use as a food additive with conditions of safe use;^{Pf}
- c. A determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in 21 CFR Part 182, 21 CFR Part 184, or 21 CFR Part 186; and in FDA's Inventory of GRAS Notices;^{Pf}
- d. A prior sanction listed under 21 CFR Part 181;^{Pf} or
- e. A food contact notification that is effective;^{Pf} and

3. Be applied only to hands that are cleaned as specified under 2VAC5-585-140.^{Pf}

B. If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under subdivision A 2 of this section, use shall be:

1. Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves;^{Pf} or
2. Limited to situations that involve no direct contact with food by the bare hands.^{Pf}

C. A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/l (ppm) chlorine.^{Pf}

2VAC5-585-235. Use of bandages, finger cots, or finger stalls.

If used, an impermeable cover such as a bandage, finger cot, or finger stall located on the wrist, hand, or finger of a food employee working with exposed food shall be covered with a single-use glove.

2VAC5-585-255. Clean-up of vomiting and diarrheal events.

A. A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment.^{Pf}

B. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.^{Pf}

2VAC5-585-300. Fish.

A. Fish that are received for sale or service shall be:

1. Commercially and legally caught or harvested;^P or
2. Approved for sale or service ~~by a regulatory authority.~~^P

B. Molluscan shellfish that are recreationally caught may not be received for sale or service.^P

2VAC5-585-310. Molluscan shellfish.

A. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, ~~2013~~ 2017 Revision, (U.S. Food and Drug Administration).^P

B. Molluscan shellfish shall be from sources that are listed in the "Interstate Certified Shellfish Shippers ~~List,~~" updated monthly List" (U.S. Food and Drug Administration).^P

2VAC5-585-330. Game animals.

A. If game animals are received for sale or service they shall be:

1. 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 for game animals such as exotic animals (i.e., reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR Part 352;^P

2. As allowed by law, for wild game animals that are live-caught:

a. Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction;^P

b. Slaughtered and processed according to:

(1) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program;^P and

(2) Requirements that are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;^P or

3. As allowed by law for field-dressed wild game animals under a routine inspection program that ensures the animals:

a. Receive a postmortem examination by an approved veterinarian or veterinarian's designee;^P

b. Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program;^P and

c. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.^P

B. A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR Part 17.

C. The requirements of subsection A of this section shall not apply to commercially slaughtered or processed rabbits that are offered for sale or service.

D. Commercially slaughtered or processed rabbits that are offered for sale or service shall be packaged with a label that complies with subsection 900 B of this chapter and includes the following information:

1. Producer number;

2. Safe handling instructions, as required by 9 CFR 317.2(l) and 9 CFR 381.125(b);

3. An identifying code that is permanently visible to the naked eye to aid in traceback throughout sale and distribution; and

4. The statement: “WARNING: EXEMPT FROM CARCASS INSPECTION. PREPARED IN COMPLIANCE WITH THE VIRGINIA RABBIT PROGRAM.” on the principal display panel.

E. An entity commercially slaughtering or processing rabbits that are offered for sale or service may elect to participate in a voluntary inspection program that is conducted by the state agency that has animal health jurisdiction or a voluntary inspection program that is administered by USDA. The requirements of subsection D of this section shall not apply to commercially slaughtered or processed rabbits that are offered for sale or service that bear a mark of inspection and that are under a voluntary inspection program that is conducted by the state agency that has animal health jurisdiction or that is administered by USDA.

2VAC5-585-400. Shucked shellfish, packaging and identification.

A. Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies the:^{Pf}

1. Name, address, and certification number of the ~~shucker, packer,~~ shucker-packer or repacker of the molluscan shellfish;^{Pf} and
2. The "sell by" or "best if used by" date for packages with a capacity of less than ~~one-half gallon~~ 64 fluid ounces (1.89 L) or the date shucked for packages with a capacity of ~~one-half gallon~~ 64 fluid ounces (1.89 L) or more.^{Pf}

B. A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information as specified under subsection A of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d).

2VAC5-585-410. Shellstock identification.

A. Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2013 Revision, (U.S. Food and Drug Administration) and that list on each dealer's tag or label the following information in the following order:^{Pf}

1. The dealer's name and address, and the certification number assigned by the shellfish control authority;^{Pf}
2. The original shipper's certification number assigned by the shellfish control authority;^{Pf}
3. The harvest date, or if depurated, the date of depuration processing, or if wet stored, the original harvest date and the final harvest date;^{Pf}
4. If wet stored or depurated, the wet storage or depuration cycle or lot number. The wet storage lot number shall begin with the letter "w";^{Pf}
5. The harvest area including the initials of the state or country of harvest;^{Pf}
6. The type and quantity of shellstock;^{Pf}
7. The following statement in bold, capitalized type: ~~"THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS"~~ "THIS TAG (or LABEL) IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE IN CHRONOLOGICAL ORDER FOR 90 DAYS." "RETAILERS: DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD OR SERVED (INSERT DATE)";^{Pf} and
8. A consumer advisory as specified in 2VAC5-585-930.

B. A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under subsection A of this section shall be subject

to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d) and § 28.2-801 of the Code of Virginia.

2VAC5-585-440. Shellstock; maintaining identification.

A. Except as specified under subdivision C 2 of this section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.^{Pf}

B. The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.^{Pf}

C. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label as specified in subsection B of this section by:^{Pf}

1. Using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under subsection B of this section;^{Pf} and
2. If shellstock are removed from its tagged or labeled container:
 - a. Preserving source identification by using a recordkeeping system as specified under subdivision 1 of this subsection;^{Pf} and
 - b. Ensuring that shellstock or shucked shellfish from one tagged or labeled container are not commingled with shellstock or shucked shellfish from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer.^{Pf}

2VAC5-585-470. Packaged and unpackaged food - separation, packaging, and segregation.

A. Food shall be protected from cross contamination by:

1. Except as specified in ~~subdivision 1 c of this subsection,~~ subsection C of this section, separating raw animal foods during storage, preparation, holding, and display from:
 - a. Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables;^P
 - b. Cooked ready-to-eat food;^P and
 - c. ~~Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food~~ Fruits or vegetables before they are washed;
2. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
 - a. Using separate equipment for each type; ^P
 - b. Arranging each type of food in equipment so that cross contamination of one type with another is prevented;^P and
 - c. Preparing each type of food at different times or in separate areas;^P
3. Cleaning equipment and utensils as specified under 2VAC5-585-1780 A and sanitizing as specified under 2VAC5-585-1900;
4. Except as specified in subdivision B 2 of 2VAC5-585-810 and subsection B of this section, storing the food in packages, covered containers, or wrappings;
5. Cleaning hermetically sealed containers of food of visible soil before opening;
6. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

7. Storing damaged, spoiled, or recalled food being held in the food establishment as specified under 2VAC5-585-3150; and
8. Separating fruits and vegetables before they are washed as specified under 2VAC5-585-510 from ready-to-eat food.

B. Subdivision A 4 of this section does not apply to:

1. Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption;
2. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
3. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
4. Food being cooled as specified under 2VAC5-585-810 B 2; or
5. Shellstock.

C. Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

2VAC5-585-540. Food contact with equipment and utensils.

Food shall only contact surfaces of:

1. Equipment and utensils that are cleaned as specified under 2VAC5-585-1770 through 2VAC5-585-1860 and sanitized as specified under 2VAC5-585-1885, 2VAC5-585-1890, and 2VAC5-585-1900;^P
2. Single-service and single-use articles;^P or^P
3. Linens, such as cloth napkins, as specified under 2VAC5-585-560, that are laundered as specified under 2VAC5-585-1910 through 2VAC5-585-1950.^P

Article 4

Destruction of Organisms of Public Health Concern

2VAC5-585-700. Raw animal foods.

A. Except as specified in subsections B, C, and D of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

1. 145°F (63°C) or above for 15 seconds for:^P
 - a. Raw eggs that are broken and prepared in response to a consumer's order and for immediate service;^P and
 - b. Except as specified under subdivisions A 2 and 3 and subsections B and C of this section, fish and intact meat, including game animals commercially raised for food and under a voluntary inspection program as specified under 2VAC5-585-330 A 1;^P
2. 155°F (68°C) for ~~15~~ 17 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food and under a voluntary inspection program as specified under 2VAC5-585-330 A 1; and raw eggs that are not prepared as specified under

subdivision A 1 a of this section: ^P Minimum	
Temperature °F (°C)	Time
145 (63)	3 minutes

150 (66)	1 minute
158 (70)	<1 second (instantaneous)

3. 165°F (74°C) or above for ~~45 seconds~~ less than one second (instantaneous) for poultry, baluts, wild game animals as specified under 2VAC5-585-330 A 2 and 3, commercially raised rabbits as specified under 2VAC5-330 C, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.^P

B. Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

1. ~~In an oven that is preheated to the temperature specified for the roast's weight~~ As specified in the following chart and that is held at chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;^{Pf P} and

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or more
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity ⁴	250°F (121°C) or less	250°F (121°C) or less

⁴Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture impermeable bag that provides 100% humidity

<u>Temperature °F (°C)</u>	<u>Time¹ in Minutes</u>	<u>Temperature °F (°C)</u>	<u>Time¹ in Seconds</u>
<u>130 (54.4)</u>	<u>112</u>	<u>147 (63.9)</u>	<u>134</u>
<u>131 (55.0)</u>	<u>89</u>	<u>149 (65.0)</u>	<u>85</u>
<u>133 (56.1)</u>	<u>56</u>	<u>151 (66.1)</u>	<u>54</u>
<u>135 (57.2)</u>	<u>36</u>	<u>153 (67.2)</u>	<u>34</u>
<u>136 (57.8)</u>	<u>28</u>	<u>155 (68.3)</u>	<u>22</u>
<u>138 (58.9)</u>	<u>18</u>	<u>157 (69.4)</u>	<u>14</u>
<u>140 (60.0)</u>	<u>12</u>	<u>158 (70.0)</u>	<u>0</u>
<u>142 (61.1)</u>	<u>8</u>	-	-
<u>144 (62.2)</u>	<u>5</u>	-	-
<u>145 (62.8)</u>	<u>4</u>	-	-

¹Holding time may include postoven heat rise.

2. ~~As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature.~~^P

Temperature °F (°C)	Time ¹ in Minutes	Temperature °F (°C)	Time ¹ in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8	-	-
144 (62.2)	5	-	-
145 (62.8)	4	-	-

¹Holding time may include postoven heat rise.

If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature;^{Pf}

<u>Oven Type</u>	<u>Oven Temperature Based on Roast Weight</u>	
	<u>Less than 10 lbs (4.5 kg)</u>	<u>10 lbs (4.5 kg) or more</u>
<u>Still Dry</u>	<u>350°F (177°C) or more</u>	<u>250°F (121°C) or more</u>
<u>Convection</u>	<u>325°F (163°C) or more</u>	<u>250°F (121°C) or more</u>
<u>High Humidity¹</u>	<u>250°F (121°C) or less</u>	<u>250°F (121°C) or less</u>

¹Relative humidity greater than 90 percent for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity

C. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

1. The food establishment serves a population that is not a highly susceptible population;
2. The steak is labeled, as specified under 2VAC5-585-270 E, to indicate that it meets the definition of "~~whole-muscle, whole-muscle, intact beef¹~~"; beef; and
3. The steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above and a cooked color change is achieved on all external surfaces.

D. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subsection C of this section may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

1. As specified under subdivisions 3 a and 3 b of 2VAC5-585-950, the food establishment serves a population that is not a highly susceptible population;
2. The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat;^{Pf} and
3. The consumer is informed as specified under 2VAC5-585-930 that to ensure its safety, the food should be cooked as specified under subsection A or B of this section; or
4. The department grants a variance from subsection A or B of this section as specified in 2VAC5-585-3540 based on a HACCP plan that:
 - a. Is submitted by the operator and approved as specified under 2VAC5-585-3541;
 - b. Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and
 - c. Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

2VAC5-585-720. Plant food cooking for hot holding.

~~Fruits and vegetables~~ Plant foods that are cooked for hot holding shall be cooked to a temperature of 135°F (57°C).^{Pf}

2VAC5-585-730. Parasite destruction.

A. Except as specified in subsection B of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

1. Frozen and stored at a temperature of -4°F (-20°C) or below for a minimum of 168 hours (seven days) in a freezer;^P
2. Frozen at -31°F (-35°C) or below until solid and stored at -31°F (-35°C) or below for a minimum of 15 hours;^P or
3. Frozen at -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of 24 hours.^P

B. Subsection A of this section does not apply to:

1. Molluscan shellfish;
2. A scallop product consisting only of the shucked ~~abductor~~ adductor muscle;
3. Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (~~Bluefin~~, Bluefin tuna, Northern);
4. Aquacultured fish, such as salmon, that:
 - a. If raised in open water, are raised in net pens, or
 - b. Are raised in land-based operations such as ponds or tanks, and
 - c. Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish; or
5. Fish eggs that have been removed from the skein and rinsed.

2VAC5-585-740. Records; creation and retention.

A. Except as specified in 2VAC5-585-730 B and subsection B of this section, if raw, ~~marinated~~, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.^{Pf}

B. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 2VAC5-585-730 may substitute for the records specified under subsection A of this section.

C. If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 2VAC5-585-730 B 4, a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 2VAC5-585-730 B 4 shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.^{Pf}

2VAC5-585-790. Thawing.

A. Except as specified in subdivision 4 of this subsection, time/temperature control for safety food shall be thawed:

1. Under refrigeration that maintains the food temperature at 41°F (5°C) or less;^{Pf}
2. Completely submerged under running water:
 - a. At a water temperature of 70°F (21°C) or below;^{Pf}
 - b. With sufficient water velocity to agitate and float off loose particles in an overflow;^{Pf} and
 - c. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F (5°C);^{Pf} or
 - d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under 2VAC5-585-700 A or B to be above 41°F (5°C) for more than four hours including:
 - (1) The time the food is exposed to the running water and the time needed for preparation for cooking;^{Pf} or
 - (2) The time it takes under refrigeration to lower the food temperature to 41°F (5°C);^{Pf}
3. As part of a cooking process if the food that is frozen is:
 - a. Cooked as specified under 2VAC5-585-700 A or B or 2VAC5-585-710;^{Pf} or
 - b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process;^{Pf} or
4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

B. Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

1. Prior to its thawing under refrigeration as specified in subdivision A 1 of this section; or
2. Prior to, or immediately upon completion of, its thawing using procedures specified in subdivision A 2 of this section.

2VAC5-585-820. Time/temperature control for safety food; hot and cold holding.

A. Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 2VAC5-585-850, and except as specified under subsections B and C of this section, time/temperature control for safety food shall be maintained:

1. At 135°F (57°C) or above, except that roasts cooked to a temperature and for a time specified in 2VAC5-585-700 B or reheated as specified in 2VAC5-585-760 E may be held at a temperature of 130°F (54°C) or above;^P or
2. At 41°F (5°C) or less.^P

B. Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.^P

C. Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified in subsection A of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified under subdivision 5 of 2VAC5-585-1230.

2VAC5-585-850. Time as a public health control.

A. Except as specified under subsection D of this section, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking, or for ready-to-eat, time/temperature control for safety food that is displayed or held for sale or ~~service~~. Written service, written procedures shall be prepared in advance, maintained in the food establishment, and made available to the department upon request that specify:^{Pf}

1. Methods of compliance with ~~subdivisions B 1, 2, and 3 or subsection~~ subsections B or C of this section;^{Pf} and

2. Methods of compliance with 2VAC5-585-800 for food that is prepared, cooked, and refrigerated before time is used as a public health control.^{Pf}

B. If time without temperature control is used as the public health control up to a maximum of 4 ~~four~~ hours:

1. The Except as specified in subdivision B 2 of this section, the food shall have an initial temperature of 41°F (5°C) or less when removed from cold holding temperature control, or 135°F (57°C) or greater when removed from hot-holding temperature control;^P

2. The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;^{Pf} may have an initial temperature of 70°F (21°C) or less if:

a. It is a ready-to-eat (i) fruit or vegetable that, upon cutting, is rendered a time/temperature control for safety food or (ii) hermetically sealed food that, upon opening, is rendered a time/temperature control for safety food;

b. The food temperature does not exceed 70°F (21°C) within a maximum time period of four hours from the time it was rendered a time/temperature control for safety food; and

c. The food is marked or otherwise identified to indicate the time that is four hours past the point in time when the food is rendered a time/temperature control for safety food as specified in subdivision B 2 a of this section.

3. The food shall be ~~cooked and served, served at any temperature if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from temperature control;^P and~~ marked or otherwise identified to indicate the time that is four hours past (i) the point in time when the food is removed from temperature control or (ii) the time that the food becomes a time/temperature control for safety food;^{Pf}

4. The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded.^P shall be cooked and served; served at any temperature, if ready-to-eat; or discarded within four hours from the point in time when the food is removed from temperature control;^P

5. The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded.^P

C. If time without temperature control is used as the public health control up to a maximum of six hours:

1. The food shall have an initial temperature of 41°F (5°C) or less when removed from temperature control and the food temperature may not exceed 70°F (21°C) within a maximum time period of six hours;^P
2. The food shall be monitored to ensure the warmest portion of the food does not exceed 70°F (21°C) during the six-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 70°F (21°C) during the six-hour holding period;^{Pf}
3. The food shall be marked or otherwise identified to indicate:^{Pf}
 - a. The time when the food is removed from 41°F (5°C) or less cold holding temperature control;^{Pf} and
 - b. The time that is six hours past the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control;^{Pf}
4. The food shall be:
 - a. Discarded if the temperature of the foods exceeds 70°F (21°C);^P or
 - b. Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six hours from the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control;^P and
5. The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit shall be discarded.^P

D. A food establishment that serves a highly susceptible population may not use time as specified under subsection A, B, or C of this section as the public health control for raw eggs.

2VAC5-585-870. Reduced oxygen packaging without a variance; criteria.

A. Except for a food establishment that obtains a variance as specified under 2VAC5-585-860, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.^P

B. Except as specified in subsection ~~F~~ E of this section, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall implement a HACCP plan that contains the information specified under ~~subdivisions 3 and 4 of 2VAC5-585-3630~~ and that:^{Pf}

- ~~1. Identifies food to be packaged;~~^{Pf}
- ~~2. Except as specified in subsections C, D, and E~~ D of this section, requires that the packaged food shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:^{Pf}
 - a. Has an A_w of 0.91 or less,^{Pf}
 - b. Has a pH of 4.6 or less,^{Pf}
 - c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21 and is received in an intact package,^{Pf} ~~or~~
 - d. Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;^{Pf} or
 - e. Is a cheese that is commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meets the Standards of Identity as specified in 21 CFR 133.150, 21 CFR 133.169, or 21 CFR 133.187;^P
- ~~3. Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:~~^{Pf}
 - a. Maintain the food at 41°F (5°C) or below,^{Pf} ~~and~~

- ~~b. Discard the food within 30 calendar days of its packaging if it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;~~^{Pf}
- 4. 2. Limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;^P
- 5. 3. Includes operational procedures that:
 - a. Prohibit contacting ready-to-eat food with bare hands as specified under 2VAC5-585-450 B;^{Pf}
 - b. Identify a designated work area and the method by which:^{Pf}
 - (1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination,^{Pf} and
 - (2) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation;^{Pf} and
 - c. Delineate cleaning and sanitization procedures for food-contact surfaces;^{-Pf} and
 - d. Describe how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:^{Pf}
 - (1) Maintain the food at 41°F (5°C) or below,^{Pf} and
 - (2) Discard the food if, within 30 calendar days of its packaging, it is not served for on-premises consumption or consumed, if served or sold for off-premises consumption;^{Pf}
- 6. 4. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:^{Pf}
 - a. Concepts required for safe operation;^{Pf}
 - b. Equipment and facilities;^{Pf} and
 - c. Procedures specified under subdivision 5 3 of this subsection and ~~subdivisions 3 and 4 of 2VAC5-585-3630;~~^{Pf} and
- 7. 5. Is provided to the department prior to implementation as specified under subsection B of 2VAC5-585-3620.

C. Except for fish that is frozen before, during, and after packaging and that bears a label indicating that it is to be kept frozen until time of use, a food establishment may not package fish using a reduced oxygen packaging method.^P

D. Except as specified in subsections C and F E of this section, a food establishment that packages time/temperature control for safety food using a cook-chill or sous vide process shall:

- 1. Provide to the department prior to implementation, a HACCP plan that contains the information as specified under ~~subdivisions 3 and 4 of 2VAC5-585-3630;~~^{Pf}
- 2. Ensure the food is:
 - a. Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;^{Pf}
 - b. Cooked to heat all parts of the food to a temperature and for a time as specified under 2VAC5-585-700 A, B, and C;^P
 - c. Protected from contamination before and after cooking as specified in 2VAC5-585-450 through 2VAC5-585-765;^P
 - d. Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking, and before reaching a temperature below 135°F (57°C);^P

e. Cooled to 41°F (5°C) in the sealed package or bag as specified under 2VAC5-585-800 and ^P

(1) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within 30 calendar days after the date of packaging;^P

(2) Held at 41°F (5°C) or less for no more than seven calendar days, at which time the food must be consumed or discarded;^P or

(3) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C), removed from refrigeration equipment that maintains a 34°F (1°C) food temperature, and then held at 41°F (5°C) or less for no more than seven calendar days, not to exceed 30 calendar days from its date of packaging, at which time the food must be consumed or discarded;^P or

(4) Held frozen with no shelf-life restriction while frozen until consumed or used;^P

f. Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;^{Pf}

g. If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation;^{Pf} and

h. Labeled with the product name and the date packaged;^{Pf} and

3. Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:

a. Make such records available to the department upon request;^{Pf} and

b. Hold such records for at least six months;^{Pf} and

4. Implement written operational procedures as specified under subdivision B § 3 of this section and a training program as specified under subdivision B § 4 of this section.^{Pf}

~~E. Except as specified under subsection F of this section, a food establishment that packages cheese using a reduced oxygen packaging method shall:~~

~~1. Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150, 21 CFR 133.169, or 21 CFR 133.187;^P~~

~~2. Have a HACCP plan that contains the information specified in subdivisions 3 and 4 of 2VAC5-585-3630 and as specified in subdivisions B 1, B 3 a, B 5, and B 6 of this section;^{Pf}~~

~~3. Label the package on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first;^{Pf} and~~

~~4. Discard the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.^{Pf}~~

F. E. A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package time/temperature control for safety food that is always:

1. Labeled with the production time and date;

2. Held at 41°F (5°C) or less during refrigerated storage; and

3. Removed from its packaging in the food establishment within 48 hours after packaging.

Article 6

Food Identity, Presentation, and On-Premises Labeling

2VAC5-585-880. Standards of identity.

Packaged food shall comply with standard of identity requirements in 21 CFR Parts 131-169 and 9 CFR Part 319, ~~Definitions and Standards of Identity or Composition~~, and the general requirements in 21 CFR Part 130, ~~Food Standards: General~~, and 9 CFR Part 319, ~~Subpart A, General~~.

Article 8

Special Requirements for Highly Susceptible Populations

2VAC5-585-950. Pasteurized foods, prohibited reservice, and prohibited food.

In a food establishment that serves a highly susceptible population:

1. The following criteria apply to juice:
 - a. For the purposes of subdivision 1 of this section only, children who are age nine years or younger and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
 - b. Prepackaged juice or a prepackaged beverage containing juice that bears a warning label as specified in 21 CFR 101.17(g) or a packaged juice or beverage containing juice that bears a warning label as specified under subdivision 2 of 2VAC5-585-765 may not be served or offered for sale;^P and
 - c. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in ~~subdivisions 3 through 5 of 2VAC5-585-3630~~ and as specified in 21 CFR 120.24.^P
2. Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:^P
 - a. Foods such as Caesar salad, hollandaise or ~~béarnaise~~ Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages;^P and
 - b. Except as specified in subdivision 6 of this section, recipes in which more than one egg is broken and the eggs are combined.^P
3. The following foods may not be served or offered for sale in a ready-to-eat form:^P
 - a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;^P
 - b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue;^P and
 - c. Raw seed sprouts.^P
4. Food employees may not contact ready-to-eat food as specified in 2VAC5-585-450 B and E.^P
5. Time only, as the public health control as specified under 2VAC5-585-850 D, may not be used for raw eggs.^P
6. Subdivision 2 b of this section does not apply if:
 - a. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 2VAC5-585-700 A 1, and served immediately, such as an omelet, soufflé, or scrambled eggs;
 - b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

- c. The preparation of the food is conducted under a HACCP plan that:
- (1) Identifies the food to be prepared;
 - (2) Prohibits contacting ready-to-eat food with bare hands;
 - (3) Includes specifications and practices that ensure:
 - (a) Salmonella Enteritidis growth is controlled before and after cooking; and
 - (b) Salmonella Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 2VAC5-585-700 A 2;
 - ~~d.~~ (4) Contains the information specified under subdivision 4 5 of 2VAC5-585-3630 including procedures that:
 - ~~(1)~~ (a) Control cross contamination of ready-to-eat food with raw eggs; and
 - ~~(2)~~ (b) Delineate cleaning and sanitization procedures for food-contact surfaces; and
 - ~~e.~~ (5) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.
7. Except as specified in subdivision 8 of this section, food may be re-served as specified under 2VAC5-585-680 B 1 and 2.
8. ~~Food~~ Food may not be re-served under the following conditions:
- a. Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.
 - b. Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

2VAC5-585-980. Lead use limitation.

A. Ceramic, china, and crystal utensils, and decorative utensils such as hand-painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:^P

Utensil Category	Ceramic Article Description	Maximum Lead (mg/L) (ppm)
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls ≥1.1 Liter (1.16 Quart)	1.0
Small Hollowware (excluding cups and mugs)	Bowls <1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

B. Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.^P

C. Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

2VAC5-585-1180. Temperature measuring devices; food.

A. Food temperature measuring devices that are scaled only in Fahrenheit ~~or dually scaled in Fahrenheit and Celsius~~ shall be scaled in ~~2°F increments~~ and accurate to $\pm 2^\circ\text{F}$ in the intended range of use.^{Pf}

B. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be scaled in ~~1°C increments~~ accurate to $\pm 1^\circ\text{C}$ in the intended range of use.^{Pf}

2VAC5-585-1190. Temperature measuring devices; ambient air and water.

A. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit ~~or dually scaled in Fahrenheit and Celsius~~ and shall be ~~designed to be easily readable and scaled in 3°F increments~~ and accurate to $\pm 3^\circ\text{F}$ in the intended range of use.^{Pf}

B. Ambient air and water temperature measuring devices that are scaled ~~only~~ in Celsius or dually scaled in Celsius and Fahrenheit shall be scaled in ~~1.5°C increments~~ designed to be easily readable and accurate to $\pm 1.5^\circ\text{C}$ in the intended range of use.^{Pf}

2VAC5-585-1230. Dispensing equipment, protection of equipment and food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food.
2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed.
3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
 - a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
 - b. Available for self-service during hours when it is not under the full-time supervision of a food employee.
4. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.
5. Dispensing equipment in which time/temperature control for safety food in homogenous liquid form is maintained outside of the temperature control requirements as specified in 2VAC5-585-820 A shall:
 - a. Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment;^P and
 - b. Conform to the requirements for this equipment as specified in NSF/ANSI ~~18-2012~~ 18-2016 Manual Food and Beverage Dispensing Equipment, 2012, 2016, (NSF International).^P

2VAC5-585-1300. Molluscan shellfish tanks.

A. Except as specified under subsection B of this section, molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human

consumption and shall be conspicuously marked so that it is obvious to consumers that the shellfish are for display only.^P

B. Molluscan shellfish life-support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the department as specified in 2VAC5-585-3540 and a HACCP plan that:^{Pf}

1. Is submitted by the operator and approved as specified under 2VAC5-585-3541;^{Pf} and
2. Ensures that:
 - a. Water used with fish other than molluscan shellfish does not flow into the molluscan tank;^{Pf}
 - b. The safety and quality of the shellfish as they were received are not compromised by the use of the tank;^{Pf} and
 - c. The identity of the source of the shellstock is retained as specified under 2VAC5-585-440.^{Pf}

2VAC5-585-1310. Vending machines, automatic shutoff.

A. A machine vending time/temperature control for safety food shall have an automatic control that prevents the machine from vending food:

1. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Part III (2VAC5-585-260 et seq.) of this chapter;^P and
2. If a condition specified under subdivision 1 of this subsection occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Part III (2VAC5-585-260 et seq.) of this chapter.^P

B. When the automatic shutoff within a machine vending time/temperature control for safety food is activated:

1. In a refrigerated vending machine, the ambient temperature may not exceed 41°F (5°C) for more than 30 minutes immediately after the machine is filled, serviced, or restocked;^P or
2. In a hot holding vending machine, the ambient temperature may not be less than 135°F (57°C) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.^P

2VAC5-585-1430. Vending machine doors and openings.

A. Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch or 1.5 millimeters by:

1. Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch or 1.5 millimeters. Screening of 12 mesh to one inch (12 or more mesh to 2.5 centimeters) meets this requirement;
2. Being effectively gasketed;
3. Having interface surfaces that are at least one-half inch wide or 13 millimeters; or
4. Jambs or surfaces used to form an L-shaped entry path to the interface.

B. Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than ~~4-5 millimeters or one-sixteenth inch~~ or 1.5 millimeters.

2VAC5-585-1435. Food equipment, certification and classification.

Food equipment that is certified or classified for sanitation in conformance to a recognized American National Standard by an American National Standards Institute accredited certification program is deemed to comply with the requirements of Articles 1 (2VAC5-585-960 et seq.) and 2 (2VAC5-585-1080 et seq.) of this part.

2VAC5-585-1535. Cleaning agents and sanitizers; availability.

A. Cleaning agents that are used to clean equipment and utensils as specified under Article 6 (2VAC5-585-1770 et seq.) of this part shall be provided and available for use during all hours of operation.^{Pf}

B. Except for chemical sanitizers those that are generated on site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under Article 7 (2VAC5-585-1885 et seq.) of this part shall be provided and available for use during all hours of operation.^{Pf}

2VAC5-585-1620. Warewashing sinks, use limitation.

A. A warewashing sink may not be used for handwashing as specified under 2VAC5-585-170.

B. If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 2VAC5-585-1600 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under Article 7 (~~2VAC5-585-1880 et seq.~~) (2VAC5-585-1885 et seq.) of this part before and after using the sink to wash produce or thaw food.

2VAC5-585-1700. Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness.

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified under subdivision 3 of 2VAC5-585-1900 shall meet the criteria specified under 2VAC5-585-3380, shall be used in accordance with the EPA-registered label use instructions,^P and shall be used as follows:

1. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart;^P

Minimum Concentration mg/L (ppm)	Minimum Temperature	
	pH 10 or less °F (°C)	pH 8.0 or less °F (°C)
25-49	120 (49)	120 (49)
50-99	100 (38)	75 (24)
100	55 (13)	55 (13)

2. An iodine solution shall have a:

- a. Minimum temperature of 68°F (20°C);^P
- b. pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective;^P and
- c. Concentration between 12.5 ~~mg/L (ppm)~~ mg/L (ppm) and 25 mg/L (ppm);^P

3. A quaternary ammonium compound solution shall:

- a. Have a minimum temperature of 75°F (24°C);^P
- b. Have a concentration as specified under 2VAC5-585-3380 and as indicated by the manufacturer's use directions included in the labeling;^P and
- c. Be used only in water with 500 mg/L (ppm) hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;^P

4. If another solution of a chemical specified under subdivisions 1 through 3 of this section is used, the operator shall demonstrate to the department that the solution achieves sanitization and the use of the solution shall be approved;^P or
5. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions;^P and
6. If a chemical sanitizer is generated by a device located on site at the food establishment, it shall be used as specified in subdivisions 1 through 4 of this section and shall be produced by a device that:
 - a. Complies with regulation as specified in §§ 2(q)(1) and 12 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136(q)(1) and 7 USC § 136j);^P
 - b. Complies with 40 CFR 152.500 and 40 CFR 156.10;^P
 - c. Displays the EPA device manufacturing facility registration number on the device;^{Pf} and
 - d. Is operated and maintained in accordance with manufacturer's instructions.^{Pf}

2VAC5-585-1780. Equipment food-contact surfaces and utensils.

A. Equipment food-contact surfaces and utensils shall be cleaned:

1. Except as specified in subsection B of this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;^P
2. Each time there is a change from working with raw foods to working with ready-to-eat foods;^P
3. Between uses with raw fruits and vegetables and with time/temperature control for safety food;^P
4. Before using or storing a food temperature measuring device;^P and
5. At any time during the operation when contamination may have occurred.^P

B. Subdivision A 1 of this section does not apply if the food-contact surface or utensil is in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature as specified under 2VAC5-585-700 than the previous type.

C. Except as specified in subsection D of this section, if used with time/temperature control for safety food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours.^P

D. Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every four hours if:

1. In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under Part III (2VAC5-585-260 et seq.) of this chapter and the containers are cleaned when they are empty;
2. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:
 - a. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
41°F (5.0°C) or less	24 hours
>41°F - 45°F (>5.0°C - 7.2°C)	20 hours

>45°F - 50°F (>7.2°C - 10.0°C)	16 hours
>50°F - 55°F (>10.0°C - 12.8°C)	10 hours

b. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.

3. Containers in serving situations such as salad bars, delis, and cafeteria lines that hold ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under Part III, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;

4. Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Part III;

5. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

6. The cleaning schedule is approved based on consideration of:

a. Characteristics of the equipment and its use;

b. The type of food involved;

c. The amount of food residue accumulation; and

d. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

7. In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°F (57°C) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

E. Except when dry cleaning methods are used as specified under 2VAC5-585-1810, surfaces of utensils and equipment contacting food that is not time/temperature control for safety food shall be cleaned:

1. At any time when contamination may have occurred;

2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

3. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

4. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

a. At a frequency specified by the manufacturer; or

b. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

2VAC5-585-1900. Hot water and chemical.

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

1. Hot water manual operations by immersion for at least 30 seconds as specified under 2VAC5-585-1670;^P

2. Hot water mechanical operations by being cycled through equipment that is set up as specified under 2VAC5-585-1610, 2VAC5-585-1680, and 2VAC5-585-1690 and achieving a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator;^P or

3. Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 2VAC5-585-1700. Contact times shall be consistent with those on EPA-registered label use instructions by providing:

a. Except as specified under subdivision 3 b of this section, a contact time of at least 10 seconds for a chlorine solution specified under subdivision 1 of 2VAC5-585-1700;^P

b. A contact time of at least seven seconds for a chlorine solution of 50 mg/L (ppm) that has a pH of 10 or less and a temperature of at least 100°F (38°C) or a pH of 8.0 or less and a temperature of at least 75°F (24°C);^P

c. A contact time of at least 30 seconds for other chemical sanitizing solutions;^P or

d. A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 2VAC5-585-40.^P

2VAC5-585-2100. Sampling.

A. Water from a private well shall be sampled and tested at least annually for nitrate and total coliform.^{Pf}

B. If nitrate, which is reported as "N" on the test results, exceeds 10 mg/L (ppm), the operator shall notify the department ~~by the end of the day~~ within 24 hours from when the operator is notified of the nitrate positive test result. ~~Additional sampling may be required.~~^{Pf}

C. If a sample is total coliform positive, the positive culture medium shall be further analyzed to determine if E. coli is present. The operator shall notify the department within two calendar days from when the operator is notified of the coliform-positive test result.^{Pf}

D. If E. coli is present, the operator shall notify the department ~~by the end of the day~~ within 24 hours from when the operator is notified of the E. coli positive test result.^{Pf}

2VAC5-585-2120. Capacity.

A. The water source and system shall be of sufficient capacity to meet ~~the maximum daily water demands and the peak hourly~~ water demands of the food establishment.^{Pf}

B. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.^{Pf}

2VAC5-585-2190. Handwashing sink, water temperature, and flow.

A. A handwashing sink shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet.^{Pf}

B. A steam mixing valve may not be used at a handwashing sink.

C. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

D. ~~If an~~ An automatic handwashing facility ~~is installed,~~ it shall be installed in accordance with manufacturer's instructions.

2VAC5-585-2200. Backflow prevention, air gap.

An air gap between the water supply ~~inlet~~ outlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply ~~inlet~~ outlet and may not be less than one inch (25 mm).^P

2VAC5-585-2230. Handwashing sinks, numbers and capacities.

A. Except as specified in ~~subsections~~ subsection B and ~~C~~ of this section, at least one handwashing sink, or the number of handwashing sinks necessary for their convenient use by employees in areas specified under 2VAC5-585-2280, and not fewer than the number of handwashing sinks required by law shall be provided.^{Pf}

B. If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least one handwashing sink.

~~C. If approved, when food exposure is limited and handwashing sinks are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically-treated towelettes for handwashing.~~

2VAC5-585-2270. Backflow prevention device, carbonator.

A. If not provided with an air gap as specified under 2VAC5-585-2200, a ~~double~~ dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to one inch (100 mesh to 25.4mm) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.^P

B. A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under subsection A of this section.

2VAC5-585-2320. Prohibiting a cross connection.

A. A person may not create a cross connection by connecting a pipe or conduit between the ~~drinking~~ pure water system and a ~~non~~drinking nonpotable water system or a water system of unknown quality.^P

B. The piping of a ~~non~~drinking nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries drinking pure water.^{Pf}

2VAC5-585-2460. System flushing and ~~disinfection~~ sanitization.

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.^P

2VAC5-585-2520. Backflow prevention.

A. Except as specified in subsections B, C, and D of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.^P

B. Subsection A of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

C. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (1.5 meters) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

D. If allowed by law, a warewashing ~~or culinary~~ sink may have a direct connection.

2VAC5-585-2570. Approved sewage disposal system.

Sewage shall be disposed through an approved facility that is:

1. A public sewage treatment plant;^P or
2. An individual sewage disposal system that is sized, constructed, maintained, and operated in accordance with the regulations promulgated pursuant to Chapter 6 (§ 32.1-163 et seq.) of Title 32.1 of the Code of Virginia or in accordance with the related local ordinance.^P

2VAC5-585-2750. Cleaning receptacles.

A. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under ~~2VAC5-585-2550~~ 2VAC5-585-2540.

B. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

Part VI
Physical Facilities

Article 1

Materials for Construction and Repair

2VAC5-585-2790. Indoor areas; surface characteristics.

A. Except as specified in subsection B of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

1. Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;
2. Closely woven and easily cleanable carpet for carpeted areas; and
3. Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

B. In a temporary food establishment:

1. ~~A floor may be concrete, if~~ If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other approved materials that are effectively treated to control dust and mud; and
2. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

2VAC5-585-3390. Chemicals for washing, treating, storing, and processing fruits and vegetables, criteria.

~~A. Chemicals, including those generated on site, used to wash or peel raw, whole fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables shall meet the requirements specified in 40 CFR Part 156 and shall:^P~~

1. Be an approved food additive listed for this intended use in 21 CFR Part 173;^P
2. Be generally recognized as safe for this intended use;^P or
3. Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification).^P

~~B. Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishment shall meet the requirements specified in 21 CFR 173.368.^P~~

Part VIII
Compliance and Enforcement
Article 1
Applicability of Chapter

2VAC5-585-3510. Public health protection.

A. The department shall apply this chapter to promote its underlying purpose, as specified in 2VAC5-585-20, of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

B. In enforcing the provisions of this chapter, the department shall assess existing facilities or equipment that were in use before the effective date of this chapter based on the following considerations:

1. Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
2. Whether food-contact surfaces comply with 2VAC5-585-960 through 2VAC5-585-1060;
3. Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 2VAC5-585-1450; and
4. The existence of a documented agreement with the establishment operator that the facilities or equipment will be replaced or upgraded as specified in subdivision 6 of ~~2VAC5-585-3660~~ 2VAC5-585-3750.

2VAC5-585-3520. Preventing health hazards, provision for conditions not addressed.

A. If necessary to protect against public health hazards or nuisances, the department may impose specific requirements in addition to the requirements contained in this ~~regulation~~ chapter that are authorized by law.

B. The department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the establishment operator or person in charge and a copy shall be maintained in the department's file for the food establishment.

2VAC5-585-3540. Variances, modifications and waivers.

The department may grant a variance by modifying or waiving the requirements of this ~~regulation~~ chapter if, in the opinion of the department, a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall retain the information specified under 2VAC5-585-3541 in its records for the food establishment.

2VAC5-585-3541. Documentation of proposed variance and justification.

Before a variance from a requirement of this chapter is approved, the information that shall be provided by the person requesting the variance and retained by the food establishment and in the department's file on the food establishment includes:

1. A statement of the proposed variance of the ~~regulation~~ chapter requirement citing relevant ~~regulation~~ chapter section numbers;^{Pf}
2. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant ~~regulation~~ chapter sections will be alternatively addressed by the proposal;^{Pf} and
3. A HACCP plan if required as specified under 2VAC5-585-3620 A that includes the information specified under 2VAC5-585-3630 as it is relevant to the variance requested.^{Pf}

2VAC5-585-3542. Conformance with approved procedures.

If the department grants a variance as specified in 2VAC5-585-3540, or a HACCP plan is otherwise required as specified under 2VAC5-585-3620, the operator shall:

1. Maintain the approved variance at the food establishment;^{Pf}
2. Comply with the HACCP plans and procedures that are submitted as specified under 2VAC5-585-3630 and approved as a basis for the modification or waiver;^P and
2. 3. Maintain and provide to the department, upon request, records specified under subdivisions 4 5 and 5 6 c of 2VAC5-585-3630 that demonstrate that the following are routinely employed:
 - a. Procedures for monitoring critical control points;^{Pf}
 - b. Monitoring of the critical control points;^{Pf}
 - c. Verification of the effectiveness of ~~an~~ the operation or process;^{Pf} and
 - d. Necessary corrective actions if there is failure at a critical control point.^{Pf}

2VAC5-585-3630. Contents of a HACCP plan.

For a food establishment that is required under 2VAC5-585-3620 to have a HACCP plan, the operator shall submit to the department a properly prepared HACCP plan that includes:

1. General information such as the name of the operator, the food establishment address, and contact information;
2. A categorization of the types of time/temperature control for safety foods that are to be controlled under the HACCP plan;^{Pf}
3. A flow diagram or chart for each specific food or category type that identifies:
 - a. Each step in the process;^{Pf} and
 - b. The hazards and controls for each step in the flow diagram or chart;^{Pf}
 - ~~e.~~ The steps that are critical control points;^{Pf}
 - ~~d.~~ The ingredients, materials, and equipment used in the preparation of that food;^{Pf} and
 - ~~e.~~ 4. The ingredients, recipes, or formulations; or recipe that delineates materials and equipment used in the preparation of each specific food or category type; and methods and procedural control measures that address the food safety concerns involved;^{Pf}
4. 5. A critical control points summary for each specific food category type that clearly identifies:
 - a. Each critical control point;^{Pf}
 - b. The significant hazards for each critical control point;^{Pf}
 - ~~c.~~ The critical limits for each critical control point;^{Pf}
 - ~~e.~~ d. The method and frequency for monitoring and controlling each critical control point by the designated food employee or the person in charge;^{Pf}
 - ~~d.~~ The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;^{Pf}
 - e. Action to be taken by the designated food employee or person in charge if the critical limits for each critical control point are not met;^{Pf} and
 - f. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;^{Pf}
 - ~~g.~~ Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed;^{Pf}
5. 6. Supporting documents such as:

- a. Food employee and supervisory training plan and operating procedures that addresses address the food safety issues of concern;^{Pf}
 - b. Copies of blank record forms that are necessary to implement the HACCP plan;^{Pf}
 - c. Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal;^{Pf} and
- 6- 7. Any other information required by the department.

Article 3

(Reserved) Conditions to Operate

2VAC5-585-3655. Responsibilities of the department. (Repealed.)

~~A. At the time of the initial inspection, the department shall provide to the operator a copy of this chapter so that the operator is notified of the compliance requirements and the conditions of retention, as specified under 2VAC5-585-3660, that are applicable to the food establishment.~~

~~B. Failure to provide the information specified in subsection A of this section does not prevent the department from taking authorized action or seeking remedies if the operator fails to comply with this chapter or an order, warning, or directive of the department.~~

2VAC5-585-3660. Responsibilities of the operator. (Repealed.)

The operator shall:

- 1. ~~Comply with the provisions of this chapter including the conditions of a granted variance as specified under 2VAC5-585-3542 and approved plans as specified under 2VAC5-585-3610;~~
- 2. ~~If a food establishment is required under 2VAC5-585-3620 to operate under a HACCP plan, comply with the plan as specified under 2VAC5-585-3542;~~
- 3. ~~Immediately contact the department to report an illness of a food employee or conditional employee as specified under 2VAC5-585-80 B;~~
- 4. ~~Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified under 2VAC5-585-3910;~~
- 5. ~~Allow authorized representatives of the commissioner access to the food establishment as specified under 2VAC5-585-3820;~~
- 6. ~~Replace existing facilities and equipment specified in 2VAC5-585-3510 with facilities and equipment that comply with this chapter if:~~
 - a. ~~The department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;~~
 - b. ~~The department directs the replacement of the facilities and equipment because of a change of ownership; or~~
 - c. ~~The facilities and equipment are replaced in the normal course of operation;~~
- 7. ~~Comply with directives of the department including timeframes for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the operator's food establishment or in response to community emergencies;~~
- 8. ~~Accept notices issued and served by the department according to law;~~
- 9. ~~Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter or a directive of the department, including timeframes for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and~~

~~10. Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the department.~~

2VAC5-585-3740. Responsibilities of the department.

A. At the time of the initial inspection, the department shall provide to the operator a copy of this chapter so that the operator is notified of the compliance requirements and the conditions of retention, as specified under 2VAC5-585-3750, that are applicable to the food establishment.

B. Failure to provide the information specified in subsection A of this section does not prevent the department from taking authorized action or seeking remedies if the operator fails to comply with this chapter or an order, warning, or directive of the department.

2VAC5-585-3750. Responsibilities of the operator.

The operator shall:

1. Comply with the provisions of this chapter including the conditions of a granted variance as specified under 2VAC5-585-3542 and approved plans as specified under 2VAC5-585-3610;

2. If a food establishment is required under 2VAC5-585-3620 to operate under a HACCP plan, comply with the plan as specified under 2VAC5-585-3542;

3. Immediately contact the department to report an illness of a food employee or conditional employee as specified under 2VAC5-585-80 B;

4. Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified under 2VAC5-585-3910;

5. Allow authorized representatives of the commissioner access to the food establishment as specified under 2VAC5-585-3820;

6. Replace existing facilities and equipment specified in 2VAC5-585-3510 with facilities and equipment that comply with this chapter if:

a. The department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;

b. The department directs the replacement of the facilities and equipment because of a change of ownership; or

c. The facilities and equipment are replaced in the normal course of operation;

7. Comply with directives of the department including timeframes for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the operator's food establishment or in response to community emergencies;

8. Accept notices issued and served by the department according to law;

9. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter or a directive of the department, including timeframes for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and

10. Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the department.

Article 4
Inspection and Correction of Violations

2VAC5-585-3800. Frequency, establishing inspection interval.

A. Except as specified in subsections B and C of this section, the department shall inspect a food establishment at least once every six months.

B. The department may increase the interval between inspections beyond six months if:

1. The food establishment is fully operating under an approved and validated HACCP plan as specified under subdivisions **1 2** and **2 3** of 2VAC5-585-3542 and 2VAC5-585-3630;

2. The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction; or

3. The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not time/temperature control for safety food such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.

C. The department shall periodically inspect a temporary food establishment that prepares, sells, or serves unpackaged time/temperature control for safety food and that:

1. Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or

2. Has inexperienced food employees.

2VAC5-585-3815. Competency of inspectors.

A. An authorized representative of the commissioner who inspects a food establishment or conducts plan review for compliance with this ~~regulation~~ chapter shall have the knowledge, skills, and ability to adequately perform the required duties.

B. The department shall ensure that authorized representatives who inspect a food establishment or conduct plan review for compliance with this chapter have access to training and continuing education as needed to properly identify violations and apply the chapter.

2VAC5-585-3820. Access allowed at reasonable times.

After the authorized representative of the commissioner presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the authorized representative to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

2VAC5-585-3860. Documenting information and observations.

The authorized representative of the commissioner shall document ~~on an inspection report form~~:

1. Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, and personnel certificates that may be required; and

2. Specific factual observations of violative conditions or other deviations from this chapter that require correction by the establishment operator including:

- a. Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this chapter specified under 2VAC5-585-60;
- b. Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under 2VAC5-585-80 B and D;
- c. Nonconformance with priority items and priority foundation items of this chapter;
- d. Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 2VAC5-585-3542;
- e. Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under subdivision 4-f 5 g of 2VAC5-585-3630; and
- f. Nonconformance with critical limits of a HACCP plan.

2VAC5-585-3910. Imminent health hazard, ceasing operations and reporting.

A. Except as specified in subsection B and C of this section, an operator shall immediately discontinue operations and notify the department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.^P

B. An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

C. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the department may agree to continuing operations in the event of an extended interruption of electrical or water service if:

1. A written emergency operating plan has been approved by the department;
2. Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption;
and
3. The department is informed upon implementation of the written emergency operating plan.

2VAC5-585-3940. Verification and documentation of correction.

A. After observing at the time of inspection a correction of a violation of a priority item or priority foundation item or a HACCP plan deviation, the authorized representative of the commissioner shall enter the violation and information about the corrective action on the inspection report.

B. As specified under 2VAC5-585-3930 B, after receiving notification that the operator has corrected a violation of a priority item or priority foundation item or HACCP plan deviation, or at the end of the specified period of time, the authorized representative shall verify correction of the violation or deviation during the next ~~scheduled~~ inspection of the establishment and shall document the information on an inspection report, and enter the report in the department's records.

2VAC5-585-4050. Restriction or exclusion of food employee or closure of food establishment.

Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the department may issue an order to the suspected food employee, conditional employee, or operator instituting one or more of the following control measures:

1. Restricting the food employee or conditional employee;
2. Excluding the food employee or conditional employee; or
3. Closing the food establishment in accordance with law.

2VAC5-585-4060. Restriction or exclusion request: order: warning or hearing not required, information required in order.

Based on the findings of the investigation as specified in 2VAC5-585-4040 and to control disease transmission, the department may issue an order of restriction or exclusion to the suspected food employee or the operator without prior warning, notice of hearing, or a hearing if the order:

1. States the reasons for the restriction or exclusion that is ordered;
2. States the evidence that the food employee or operator shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
3. States that the suspected food employee or the operator may request an appeal hearing by submitting a timely request as provided in law; and
4. Provides the name and address of the authorized representative of the commissioner to whom a request for appeal hearing be made.

FORMS (2VAC5-585)

Retail Inspection Report, ODF-FSP-10001 (rev. ~~7/2016~~) 7/2018)

Foodborne Illness Complaint Report, ODF-FSP-10003 (rev. 6/2016)

Complaint Form, ODF-FSP-10004 (rev. 6/2016)

DOCUMENTS INCORPORATED BY REFERENCE (2VAC5-585)

Approved Drug Products with Therapeutic Equivalence Evaluations, ~~34th~~ 39th Edition, 2014, 2019, U.S. Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Office of Pharmaceutical Science, Office of Generic Drugs at <http://www.fda.gov/cder/ob/default.htm>

Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2018, Conference for Food Protection, 30 Elliott Court, Martinsville, IN 46151-1331

Grade "A" Pasteurized Milk Ordinance, ~~2013~~ 2017 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-626), 5100 Paint Branch Parkway, College Park, MD 20740-3835

Interstate Certified Shellfish Shippers List (updated monthly), published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835

National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, ~~2013~~ 2017 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835

NSF/ANSI ~~48-2012~~ 18-2016 Manual Food and Beverage Dispensing Equipment, 2012, NSF International, 789 North Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, www.nsf.org

~~Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, Conference for Food Protection, 30 Elliott Court, Martinsville, IN 46151-1331~~

[United States Standards, Grades, and Weight Classes for Shell Eggs, AMS-56, effective July 20, 2000, U.S. Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Avenue, SW, Washington, DC 20250-0259](#)

10. If there were any presentations (PowerPoint, etc.), were you able to hear and see them?

Poorly
1 2 3 4 5
Clearly

COMMENT _____

11. Were the members as attentive and did they participate as much as you would have expected?

Less
1 2 3 4 5
More

COMMENT _____

12. Were there differences you noticed in how the members interacted?

With the other members present:

Very Different
1 2 3 4 5
No Difference

With members participating from other locations:

Very Different
1 2 3 4 5
No Difference

With the public:

Very Different
1 2 3 4 5
No Difference

COMMENT _____

13. Did you feel the technology was a help or a hindrance?

Hindered
1 2 3 4 5
Helped

COMMENT _____

14. How would you rate the overall quality of this meeting?

Poor
1 2 3 4 5
Excellent

COMMENT _____

THANK YOU. Please send your completed form by mail, facsimile or electronic mail to the FOIA Council using the following contact information:

Virginia Freedom of Information Advisory Council
General Assembly Building, Second Floor
201 North 9th Street, Richmond, Virginia 23219
foiacouncil@dls.virginia.gov/Fax: 804-371-8705/Tele: 866-448-4100