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Exempt Action Final Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation(s)	2 VAC 5-585
Regulation title(s)	Retail Food Establishment Regulations
Action title	Amendments due to 2018 legislation allowing dogs on premises and exempting rabbits from game animal inspection requirements
Final agency action date	July 24, 2018
Date this document prepared	August 1, 2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Order 14 (2018)(Amended), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed amendments to 2 VAC 5-585, *Retail Food Establishment Regulations*, are necessary to align certain provisions with those of legislation enacted by the 2018 Session of the General Assembly amending the Virginia Food and Drink Law (Va. Code § 3.2-5100 *et seq.*). Chapter 819 of the 2018 Acts of Assembly (House Bill 286) provides that dogs may be allowed within a designated area inside or on the premises of a licensed distillery, winery or farm winery, or brewery or farm brewery, except in any area used for the manufacture of food products. *Retail Food Establishment Regulations* currently provides that no animal shall be permitted on the premises of a food establishment, with certain exceptions for guard or guide animals. The proposed amendment adds the following language to Section 3310 of the regulation: "A dog may be allowed within a designated area inside or on the premises of,

except in any area used for the manufacture of food products, a distillery licensed pursuant to §4.1-206, a winery or farm winery licensed pursuant to §4.1-207, or a brewery or farm brewery licensed pursuant to §4.1-208.” The addition of this new subsection also requires the addition of a reference to this new subsection in Section 250 of the regulation.

Chapter 674 of the 2018 Acts of Assembly (Senate Bill 470) provides that the Board of Agriculture and Consumer Services may not require commercially slaughtered or processed rabbits that are offered for sale or service be slaughtered or processed under a voluntary inspection program administered by the Virginia Department of Agriculture and Consumer Services (VDACS) or the U.S. Department of Agriculture. The proposed amendment to the regulation removes wording relating to rabbits from Subsection 330(A) , which lists game animals subject to a voluntary inspection program, and adds a new subsection explicitly indicating that, “The requirements of subsection A of this section shall not apply to commercially slaughtered or processed rabbits that are offered for sale or service.”

As this regulatory action is required to align certain provisions of the regulation with recent amendments to the Virginia Food and Drink Law and does not involve any agency discretion, the agency does not have any scientific, economic, or statistical data in support of the proposed amendments. The agency expects the intent of both Chapter 674 and 819 of the 2018 Acts of Assembly was to provide an economic benefit for the impacted regulants.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On July 24, 2018, the Board of Agriculture and Consumer Services adopted as final amendments to 2 VAC5-585, *Retail Food Establishment Regulations*.