

STATEMENT OF BASIS, PURPOSE, SUBSTANCE, ISSUES AND ESTIMATED IMPACT

BASIS OF THE REGULATIONS

The regulations are authorized and mandated by Sections 35.1-11 and 35.1-14 of the *Code of Virginia*. The code requires the regulations to provide minimum standards for the following: (i) a procedure for obtaining a license; (ii) the safe and sanitary maintenance, storage, operation, and use of equipment; (iii) the sanitary maintenance and use of a restaurant's physical plant; (iv) the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods; (v) procedures for vector and pest control; (vi) requirements for toilet and cleansing facilities for employees and customers; (vii) requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; (viii) requirements for an approved water supply and sewage disposal system; (ix) personal hygiene standards for employees, particularly those engaged in food handling; and (x) the appropriate use of precautions to prevent the transmission of communicable diseases.

PURPOSE OF THE REGULATIONS

The purpose of the regulations is to ensure that the dining public is protected by establishing minimum sanitary standards for restaurants. The regulations provided minimum standards for the source of foods in restaurants, the safe handling, storage, preparation and serving of food, personnel hygiene of the employees, precautions to prevent the transmission of diseases communicable through food, and the general sanitation of the facility. When followed, these minimum standards will protect the public's health, safety and welfare.

SUBSTANCE OF THE REGULATIONS

The proposed regulations will be replacing the existing regulations that were last revised in 1984. Since then the emergence of new strains of bacteria and other organisms, such as *E. coli* O157:H7 and cyclospora, have greatly affected the food industry. With the emergence of these new organisms come new control measures that must be instituted to prevent a foodborne outbreak. The proposed regulations incorporate new control measures for prevention of foodborne disease. The regulations also incorporate the principles of Hazard Analysis Critical Control Point (HACCP) in the food service establishment. HACCP focuses on the flow and handling of food through the establishment, focusing on the hazards encountered rather than structural requirements of the building. These regulations are based on the FDA 1997 Model Food Code, which is supported by the National Restaurant Association.

ISSUES OF THE REGULATIONS

The primary advantage of the regulations is that they establish modern science based standards that has broad support in the food service and food regulatory communities. More emphasis is placed on the flow and handling of the food through the establishment. Several new standards are the result of new pathogens that have emerged since the regulations were last revised.

ESTIMATED IMPACT

The Department anticipates little or no negative budgetary impact with these regulations. The Department has been conducting inspections of restaurants for many years so this is not a new program. Initially there will be some cost associated with training but the training is planned to be as cost effective as possible. FDA has agreed to assist with training key individuals at no cost to the agency.

The restaurant industry should not be adversely impacted by the regulations. They participated in the drafting of the regulations and they support their amendment. The National Restaurant Association is supportive all states adopting the FDA Model Food Code as state regulation. This promotes uniformity across the nation, which is desirable for chain restaurants that operate in multiple states.

One potential impact on restaurants will be the new requirement to hold cold potentially hazardous foods at a temperature below 41°F instead of the current 45°F. This change is recommended by FDA to slow the growth of *Listeria monocytogenes* bacteria in foods that may contain that organism. The lower temperature has the benefit of not only preventing the rapid growth of this organism, but it also permits ready-to-eat foods to be held longer under refrigeration, 7 days as opposed to 4 days at 45 degrees. The Department is following the recommendation in the FDA Model Food Code to allow existing restaurants with refrigeration equipment capable of maintaining food at 45°F five years from the effective date of the regulations to upgrade their equipment to meet the 41°F requirement.