



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-421
VAC Chapter title(s)	Food Regulations
Action title	Amend Regulations to Conform to Chapter 393 of the 2022 Acts of Assembly
Final agency action date	July 15, 2022
Date this document prepared	June 3, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapter 393 of the 2022 Acts of Assembly (SB 146) amended §35.1-14 of the Code of Virginia as follows, "Regulations adopted by the Board pursuant to this section shall not require an establishment that sells only prepared foods to have a certified food protection manager, as defined in § 35.1-1, on site during all hours of operation."

Without amendment, effective July 24, 2023, the Food Regulations (12VAC5-421 et seq.) would require a certified food protection manager on site during all hours of the food establishment's operation. Ch. 393 (2022) requires the removal of this provision. This exempt action allows the Food Regulations to conform to § 35.1-14.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The mandate for this regulatory change is found in Chapter 393 of the 2022 General Assembly Session.

Statement of Final Agency Action

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.

The State Health Commissioner, pursuant to his authority in § 32.1-20 of the Code of Virginia, approved this final exempt action to amend the Food Regulations (12VAC5-421) while the Board was not in session on July 15, 2022.