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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12 VAC 5-165-10 through 12 VAC 5-165-310
<b>VAC Chapter title(s)</b>	Regulations for the Repacking of Crab Meat
<b>Date this document prepared</b>	12/3/2020

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

## Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

n/a

## Legal Basis

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

No changes are being made to the Regulations for the Repacking of Crab Meat. The promulgating agency is the Virginia Department of Health and the Board of Health had the statutory authority under the Code of Virginia 28.2-801 and 32.1-12 to adopt the Regulations for the Repacking of Crab Meat.

**Alternatives to Regulation**

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

No alternatives have been identified

**Public Comment**

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

Commenter	Comment	Agency response

No public comments were received about this regulation during the public comment period which began December 9, 2019 and ended December 30, 2019. The Department of Health did not establish an informal advisory group for the purpose of assisting in the periodic review as no amendments were deemed necessary and the Regulations had been previously amended in 2014.

**Effectiveness**

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

This regulation meets the criteria set out in Executive Order 14 (2010) because it is necessary to protect public health. The Regulations for the Repacking of Crab Meat for Human Consumption (12 VAC 5-165 et seq.) pertain to the practice of transferring crab meat from one container of one establishment, and the term is defined in § 28.2-800 in the Code of Virginia, into the container of an establishment certified by the Division of Shellfish Sanitation. These Regulations pertain to the source of crabmeat and handling to prevent pathogenic growth in the ready to eat product to protect the consumer.

**Decision**

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The Department of Health recommends that this regulation remain in effect with no change. No public comments were received about this regulation during the public comment period which began December 9, 2019 and ended December 30, 2019. The Regulations were amended in 2014.

**Small Business Impact**

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

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The Regulations for the Repacking of Crab Meat for Human Consumption (12 VAC 5-165 et seq.) pertain to the practice of transferring crab meat from one container of one establishment, and the term is defined in § 28.2-800 in the Code of Virginia, into the container of an establishment certified by the Division of Shellfish Sanitation. These Regulations pertain to the source of crabmeat and handling to prevent pathogenic growth in the ready to eat product. There is a continuing need for these Regulations because they protect public health in regards to consumption of imported crabmeat that is repacked into containers which differ from the original processor. This periodic review is the first evaluation of the regulation since it was amended in 2014. In that time, technology, economic conditions, and other factors have not changed in the area affected by this regulation. No comments were received on this regulation during the public comment period, which began December 9, 2019 and concluded December 30, 2019. This regulation is required by state law, and is not overly complex. Consistent with the stated objectives of applicable law, it has no negative impact on the regulated community or on small businesses, and does not overlap, duplicate, or conflict with federal or state law or regulation. As a result of this Periodic Review, the Department of Health recommends retention of the existing regulation with no changes.

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