



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-585
<b>Regulation title</b>	Retail Food Establishment Regulations
<b>Action title</b>	This regulatory action will update the existing regulation, which is based on the 2005 Food and Drug Administration Food Code, so that it is consistent with the 2013 Food and Drug Administration Food Code, as well as the regulations enforced by the Virginia Department of Health. The new regulations are necessary to address changes that have occurred in the food industry and to provide optimal public health protection.
<b>Date this document prepared</b>	July 21, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.*

The Retail Food Establishment Regulations establish minimum sanitary standards for retail food establishments such as supermarkets, grocery stores, and convenience stores. Those standards include the safe and sanitary maintenance, storage, operation, and use of equipment; the safe preparation, handling, protection, and preservation of food including necessary refrigeration or heating methods and procedures for vector and pest control; requirements for toilet and hand washing facilities for employees; requirements for appropriate lighting and ventilation; requirements for an approved water supply and sewage disposal system; personal hygiene standards for employees; and the appropriate use of precautions to prevent the transmission of communicable diseases. The current regulation is based on the Food and Drug Administration's (FDA) 2005 Food Code and the 2007 Food Code Supplement. The existing regulation is being amended to be consistent with the current 2013 FDA Food Code. Many of the changes simply refine and provide further clarity to our existing regulations. Significant changes include (i) the addition of cut leafy greens to the list of foods that retail food establishments need to refrigerate in order to ensure that the product is safe to consume; (ii) food establishments must have employees who

are fully informed regarding food allergens and their dangers; (iii) retail food establishment employees must be aware of their responsibility to inform management of any health or illness issues that might affect the safety of food products; (iv) the firm must have procedures in place for addressing vomitus or fecal matter discharge on surfaces in the food establishment; (v) wild mushrooms cannot be sold unless the establishment has been approved to do so by the regulatory authority; (vi) bare hand contact with ready-to-eat food ingredients is allowed in certain instances; (vii) game animals that are sold must be raised, slaughtered, and processed under a voluntary inspection program that is conducted by the United States Department of Agriculture or the state agency that has animal health jurisdiction; (viii) the food establishment must discontinue operations and notify the Virginia Department of Agriculture and Consumer Services if an imminent health hazard exists at the establishment; (ix) the firm must immediately contact the agency to report a food employee illness due to nontyphoidal Salmonella if it is determined that the illness is of a nature that can be transmitted through food; (x) the firm must correct all Priority Item violations within 72 hours and all Priority Foundation Item violations within 10 days; and (xi) the food establishment must have at least one supervisor who is a Certified Food Protection Manager. These changes are also being proposed concurrently with the Virginia Department of Health's (VDH) adoption of the current 2013 FDA Food Code. Pursuant to § 3.2-5121(C) of the Code of Virginia, this action is exempt from portions of the Administrative Process Act, provided VDH adopts the same version and both agencies' regulations have the same effective date. Both agencies are working toward that end.

## Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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"CFPM" means Certified Food Protection Manager.

"FDA" means the United States Food and Drug Administration.

"Food Code" means the food safety regulations developed by the FDA for adoption by states and localities.

"HACCP" means Hazard Analysis and Critical Control Points; a food production system that identifies control points that are critical to the safety of the food.

"Nontyphoidal Salmonella" means a microorganism that can cause food poisoning.

"TCS" means Time/Temperature Control for Safety Food.

"USDA" means the United States Department of Agriculture.

"VDH" means the Virginia Department of Health.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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Section 3.2-109 of the Code of Virginia (Code) establishes the Board of Agriculture and Consumer Services (Board) as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-5121 of the Code provides the legal basis for the promulgation and modification of this regulation. Specifically, subsections B and C identify the authority and certain requirements for the expedited adoption of the FDA's Food Code. The authority is discretionary.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

This proposed regulatory action is essential to the protection of the health and welfare of citizens in that it sets the necessary standards of operation for the retail segment of Virginia's food industry to (i) provide a system of prevention and overlapping safeguards designed to minimize foodborne illness; (ii) ensure employee health, industry manager knowledge, safe food, nontoxic and cleanable equipment, and acceptable levels of sanitation on food establishment premises; and (iii) promote fair dealings with the consumer. Additionally, 2 VAC 5-585-20 of the proposed regulation states, "The purpose of this regulation is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented."

The first goal of the regulation and the proposed modifications is to maintain a scientifically sound basis for regulation of the retail food industry. The modifications proposed to the existing regulation are necessary to ensure appropriate measures are put in place that address emerging and ongoing food safety concerns that exist within an evolving food industry.

The second goal is to facilitate the shared responsibility of the food industry and the government in ensuring that food provided to the consumer is safe and does not become a vehicle in a disease outbreak or in the transmission of communicable disease. Foodborne disease in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. The U.S. Centers for Disease Control and Prevention estimate that foodborne diseases cause approximately 48 million people to become ill, 128,000 hospitalizations, and 3,000 deaths in the United States each year. Epidemiological outbreak data repeatedly identify five major risk factors related to employee behaviors and preparation practices in retail and food service establishments as contributing to foodborne illness. Those risk factors include (i) improper holding temperatures; (ii) inadequate cooking, such as undercooking raw eggs; (iii) contaminated equipment; (iv) food from unsafe sources; and (v) poor personal hygiene. This regulation and the proposed modifications address controls for these risk factors. The regulation also provides the necessary guidance to the retail food industry relative to controlling risk factors and implementing appropriate intervention strategies.

The third goal of the proposed regulation is to ensure a regulatory approach that is uniform throughout the retail segment of Virginia's food industry by administering standards that are equivalent to those administered by VDH in restaurants and food service establishments. This regulatory uniformity also extends throughout the nation as most states have adopted versions of these regulations.

## Substance

*Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)*

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Substantive changes are as follows:

Part I

- Deleted the term "Potentially Hazardous Food (Time/Temperature Control for Safety Food)" and made a universal change throughout the regulation to replace it with the term "Time/Temperature Control for Safety Food" (TCS)
- Added "cut leafy greens" as a TCS food (added to TCS food definition)

Part II

- Sections have been added to the *Food Code* that require at least one employee who supervises or has authority over food establishment operations to be a Certified Food Protection Manager (CFPM). Food establishments that pose minimal risk to contributing to foodborne illness may be exempt from the requirement to have a CFPM.
- The revisions specify that CFPM certification must be obtained through the following programs approved by the Conference for Food Protection:
  - National Restaurant Association Solutions
  - National Registry of Food Safety Professionals
  - Prometric
  - 360 Training
- Employee training must now include food allergy awareness, in addition to food safety.
- Amended to add nontyphoidal Salmonella as one of the reportable illnesses for action by the person in charge. Added language to address employee health controls for the exclusion and restriction of nontyphoidal Salmonella, as well as the removal of exclusion and restriction from nontyphoidal Salmonella once clearance has been received.
- Language has been added that requires the regulatory authority to verify that food establishment employees have been informed of their responsibility to report information to the person in charge regarding their health and illnesses that can be transmitted through food.
- Language has been added that requires food establishments to mandate that all food employees sign a reporting agreement form and maintain the signed forms on-site. The person in charge must be able to provide the regulatory authority access to the documentation.
- A new section was added that requires a food establishment to have procedures in place for employees to follow when responding to vomitus or fecal matter discharge on surfaces in the establishment.

Part III

- Removed existing language that requires a mushroom identification expert to identify all wild mushrooms sold in retail establishments. New language was added that recognized a regulatory authority's ability to approve the sale of wild mushrooms within a food establishment.
- Updated 2VAC5-585-330 addressing game animals to require either voluntary inspection by the state regulatory agency that has animal health jurisdiction or voluntary inspection by USDA for game animals that are commercially raised for food and sold in retail food establishments.

- Amended regulation to allow bare hand contact with ready-to-eat food if the ingredient is added to a food that will be cooked to temperatures that comply with 2VAC5-585-700 A through B or 2VAC5-585-710 or is cooked to a minimum temperature of 145°F.
- Added "mechanically tenderized" meats to the list of foods that should be cooked to heat all parts of the food to 155°F (68°C) for 15 seconds.
- Amended 2VAC5-585-700 to add a new subdivision D 2 to not allow the sale of undercooked, comminuted meat from a children's menu.
- Added new section, 2VAC5-585-725, entitled "Noncontinuous cooking of raw animal foods". This section allows for partially cooking raw animal foods. Requires prior approval from the regulatory authority and written procedures must be maintained at the firm.

#### Part IV

- Amended 2VAC5-585-1520 to add new subsection B that requires the use of temperature sensitive tape in mechanical warewashing operations.

#### Part VIII

- Added language that will require the correction of a Priority Item within 72 hours and a Priority Foundation Item or HACCP Plan deviation within 10 days.
- Added new section, 2VAC5-585-3655, entitled "Responsibilities of the Department". Requires at the time of the initial inspection, the department to provide to the operator a copy of the regulations so that the operator is notified of the compliance requirements and the conditions of retention. Further states that failure of the department to provide a copy of the regulations does not prevent the department from taking action or seeking remedies if the operator fails to comply.
- Added new section, 2VAC5-585-3660, entitled "Responsibilities of the Operator" that requires the establishment owner or operator to do 10 things. They are to:
  - Comply with the regulation
  - If required under 2VAC5-585-3620 to operate under a HACCP plan, comply with the plan as specified
  - Immediately contact the department to report an illness of a food employee
  - Immediately discontinue operations and notify the department if an imminent health hazard may exist
  - Allow authorized representatives of the commissioner access to the food establishment
  - Replace existing facilities and equipment as needed
  - Comply with directives of the department including time frames for corrective actions
  - Accept notices issued and served by the department according to law
  - Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with the chapter
  - 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.

The following items have been added to the regulation in relevant areas to designate the criticality of certain regulatory requirements:

- The term "Critical item" has been changed to "Priority item". "Priority item" means a provision 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, handwashing; and is denoted a superscript P<sup>(P)</sup>.

- "Priority foundation item" has been added. "Priority foundation item" means a provision 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 record keeping, and labeling; and is denoted in this chapter with a superscript Pf<sup>(Pf)</sup>.
- The term "Core Item" has been added. "Core item" means a provision 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, facilities or structures, equipment design, or general maintenance. Any item that is not designated at a "priority" or "priority foundation" item is a "core item".

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.*

Public:

The proposed amendments to this regulation will further enhance the safety of food products sold through the retail segment of the food industry. The regulation and the proposed amendments are based on the most current sound science available. Consumers purchasing food products from retail establishments should develop greater confidence in the safety of the retail food supply.

There do not appear to be any disadvantages to the public.

Regulated entities or businesses:

The advantages of well-written, scientifically sound, and up-to-date retail food safety requirements have long been recognized by industry and government officials. Industry conformance with acceptable procedures and practices is far more likely where regulatory officials "speak with one voice" about what is required to protect public health, why it is important, and which alternatives for compliance may be accepted. With both VDACS and VDH administering equivalent food safety requirements in each agency's respective portion of the retail segment of the food industry, Virginia's regulatory officials will be "speaking with one voice", greatly enhancing the uniform application of retail standards and requirements. This will in turn prevent the retail food industry from adhering to separate standards which will ultimately eliminate confusion and additional costs relative to compliance with two different regulations and will further enhance the industry's ability to comply with existing food safety standards. The standards and requirements of this proposal can also be applied by the retail segment of the food industry in training and quality assurance programs.

The requirement that each retail food establishment have a Certified Food Protection Manager may pose an initial disadvantage in that it will require additional time, expense and effort by the industry. However, the acquisition of an individual within each retail food establishment who is knowledgeable regarding food safety will provide an advantage to each establishment as taking additional steps to further ensure that food products produced and offered for sale should enhance consumer confidence and ultimately food product sales. The requirement to document the safety of alternate processes and to verify to the regulatory authority that necessary and critical information regarding public health has been disseminated to employees is necessary to ensure the safety of the food supply.

The Agency and the Commonwealth:

The advantage to the agency and the Commonwealth is that the proposed changes will further ensure the safety of the food supply. This will in turn engender a greater level of confidence by the public that the both the agency and the Commonwealth are taking the necessary steps to provide an appropriate level of public health protection. This confidence in the food supply should ultimately enhance Virginia's economy via enhanced food product sales.

**Requirements more restrictive than federal**

*Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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There are no requirements in this proposal that are more restrictive than applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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There is no specific locality particularly affected by the proposed regulation.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

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In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.



Anyone wishing to submit written comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Ryan Davis, Virginia Department of Agriculture and Consumer Services, 102 Governor Street, Richmond, Virginia 23219, Ph: 804-786-3520, FAX: 804-371-7792, email: [Ryan.davis@vdacs.virginia.gov](mailto:Ryan.davis@vdacs.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cqi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.*

<p><b>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal.</b> Think broadly, e.g., these entities may or may not be regulated by this board</p>	<p>Entities affected by the proposed regulatory amendments include the general public and retail food establishments (i.e. grocery stores, supermarkets, convenience stores, etc.) However, there should be no cost to the general public for the implementation and enforcement of the proposed changes. Long term, the general public should actually realize an undetermined amount of savings due to the reduction of foodborne illness risk factors within retail food establishments.</p>
<p><b>Agency’s best estimate of the number of (1) entities that will be affected, including (2) small businesses affected.</b> Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.</p>	<p>General public – 8 million – no projected cost  Total retail food stores – 9,578  Estimated small businesses – 4,789</p>
<p><b>Benefits expected as a result of this regulatory proposal.</b></p>	<p>Benefits are a reduction in foodborne illnesses and a greater degree of public confidence in the safety of the food supply.</p>
<p><b>Projected cost to the <u>state</u> to implement and enforce this regulatory proposal.</b></p>	<p>The proposed amendments require the state to provide the retail food industry with a copy of the regulations. However, it has been determined that this information will be provided electronically at no cost to the state.</p>
<p><b>Projected cost to <u>localities</u> to implement and enforce this regulatory proposal.</b></p>	<p>There are no projected costs to localities to implement this proposal.</p>
<p><b>All projected costs of this regulatory proposal for <u>affected individuals, businesses, or other entities</u>.</b> Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance</p>	<p>Cost to the industry as a result of amended regulations would be the requirement to have a Certified Food Protection Manager on the premises. The cost to meet this certification requirement would be \$100. It is estimated that</p>



<p>by small businesses, and costs related to real estate development.</p>	<p>40% of the affected industry already meet this requirement.</p> <p>Estimated costs are as follows:</p> <p>Number of stores incurring cost to meet this requirement (9,578 stores minus 40% who are already in compliance = 5,747).</p> <p>5,747 establishments X \$100 = \$574,700</p> <p>Projected reporting, recordkeeping, and other administrative costs for the retail segment of the food industry should be negligible.</p>
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**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

Alternatives to the proposed amendments to this regulation would be to leave the regulation in place without the proposed amendments. However, this will result in a regulation that does not incorporate the latest science-based principles and requirements to address the evolving food industry. The result will be a food supply that is not optimally safe and a lower level of public health protection for the citizens of the Commonwealth. Other than the requirement to have a Certified Food Protection Manager at each retail food establishment to ensure that proper and appropriate food safety principles are adhered to, the amendments proposed will not be a financial burden to the industry. Although this requirement could be eliminated from the proposed amendments, the result would be less food safety protection for Virginia's citizens and a potential increase in foodborne illnesses and death. The current regulation along with the proposed amendments allow the food vendor additional flexibility with respect to sanitation and product processing.

Congress has mandated, through the 2011 Food Safety Modernization Act, the establishment of a national food safety system that integrates federal, state, and local food protection agencies. One component of this integration process is the establishment of uniform regulations at all levels. Currently, most states and localities have adopted FDA's Food Code and continue to update their regulations as new versions of the Food Code are released by FDA. This ensures that states are enforcing the same science-based regulations that are focused on public health protection and is a significant step in the integration of all states into one singular national food safety system. Failure to incorporate the proposed amendments to this regulation will result in VDACS enforcing regulations that are out of step with the rest of the nation. Additionally, it will result in the enforcement of regulations that are not uniform with VDH. If both VDACS and VDH are inspecting a retail food establishment (i.e. many retail food stores have restaurants) this could subject the food business to two different sets of regulations. This situation would be both costly and confusing to retail food business. Uniform regulations will result in a regulatory environment that allows food businesses to grow and flourish.

**Regulatory flexibility analysis**

*Pursuant to §2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will*

*accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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1. There only minimal reporting requirements relative to the subject regulations or the amendments proposed. Food establishments should provide documentation to the agency's Food Safety Specialist verifying that they have a Certified Food Protection Manager at the establishment. However, this is necessary in order to ensure that an individual is in place at the establishment who fully understands food safety risk factors, practices, and principles. Elimination of the requirement to have a Certified Food Protection Manager will result in the dissemination of food products at retail stores whose safety may be compromised. If there is an increase in foodborne illness linked to retail food establishments it will have a significant negative impact on the economic stability of that industry. The requirement to document the safety of alternate processes and to verify to the regulatory authority that necessary and critical information regarding public health has been disseminated to employees will require minimal cost and time and is necessary to ensure the safety of the food supply.

2. Compliance requirement time frames for violations noted as "Priority item" and "Priority foundation item" could be extended. However, "Priority Item" and "Priority foundation item" are those violations or deficiencies that could contribute directly or indirectly to a foodborne illness. Extending the time for compliance regarding these violations or deficiencies is not advisable. Inspectional frequency is already minimal and to inspect less frequently than is currently being done would put the public at unnecessary risk.

3. As noted above, there are only minimal reporting requirements. Compliance requirements are already streamlined and cannot be further simplified. Compliance violations are provided to retail food establishments by Food Safety Specialists who inspect the establishments.

4. This regulation as well as the proposed amendments, are consistent with and, where appropriate, incorporate federal performance standards for the same products and processes. This regulation allows retail food establishments the flexibility to establish performance standards and use innovative techniques in the production of safe foods. Retail establishments may apply to the regulatory authority for a variance to use a specific food safety performance standard for a product or a process in lieu of compliance with otherwise applicable specifications in this regulation, as long as the establishment can show that the controls are in place to ensure that the standard is being met.

5. Small businesses can readily comply with the requirements of this regulation and the proposed amendments. Elimination of the requirements of this regulation for small businesses will compromise the safety of the food products produced or sold by these businesses and may lead to an increase in foodborne illnesses. Foodborne illnesses associated with these small businesses will have a significant negative economic effect on said businesses.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.*

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The agency is amending this regulation using an expedited adoption process, which is authorized by Section 3.2-5121 of the Code. This process does not require a NOIRA, but does require a

public comment period and public hearing following publication of the proposed amendments in the Virginia Register of Regulations.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The impact of the proposed regulatory action on the institution of the family and family stability is from the perspective of foodborne illness and the availability of safe food for the consumer. As previously stated, the proposal is based, in part, on providing practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness. It is a goal of all government food safety agencies within the United States to reduce the incidence of foodborne illness and ensure that foods available to consumers are safe to consume. Ensuring the safety of the food supply and reducing the level of foodborne illness have a direct impact on the family and family stability by positively affecting a family's disposable income; improving family health; reducing medical care costs; reducing absences from the work place; and reducing mental, physical, and emotional pain and suffering. Additional disposable income and improved family health should strengthen parents' ability to provide education, nurturing, and supervision to their children and should contribute to economic self-sufficiency and the assumption of responsibility for and commitment to one's immediate and extended family.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

The following sections include amendments to replace "potentially hazardous food" with "time/temperature control for safety food": 60, 70, 340, 550, 630, 680, 760, 780, 790, 800, 820, 830, 840, 850, 860, 870, 1230, 1240, 1310, 1320, 1780, and 1810.

The following sections have a superscript P added, which denotes a priority item:  
 80, 90, 100, 130, 140, 160, 260, 270, 280, 290, 295, 300, 310, 320, 330, 340, 350, 360, 370, 390, 450, 460, 470, 490, 500, 520, 540, 580, 600, 650, 670, 680, 700, 710, 725, 730, 760, 765, 800, 820, 840, 850, 870, 940, 950, 960, 980, 990, 1000, 1070, 1090, 1230, 1300, 1310, 1670, 1700, 1740, 1780, 1890, 1900, 2050, 2060, 2070, 2080, 2090, 2170, 2180, 2200, 2210, 2260, 2270, 2320, 2340, 2350, 2360, 2420, 2460, 2430, 2460, 2490, 2520, 2540, 2570, 2990, 3340, 3360, 3370, 3380, 3390, 3400, 3410, 3420, 3430, 3440, 3450, 3460, 3470, 3480, 3500, 3542, and 3910.

The following sections have a superscript Pf added, which denotes a priority foundation item:

50, 60, 70, 80, 125, 170, 180, 190, 250, 270, 295, 340, 380, 400, 410, 440, 450, 510, 670, 700, 720, 725, 740, 765, 810, 830, 850, 860, 870, 900, 930, 1100, 1110, 1180, 1190, 1300, 1320, 1350, 1360, 1370, 1450, 1460, 1500, 1510, 1520, 1530, 1630, 1650, 1660, 1680, 1700, 1720, 1730, 1770, 2100, 2120, 2130, 2150, 2160, 2190, 2230, 2280, 2310, 2320, 2330, 2550, 3020, 3030, 3070, 3150, 3210, 3270, 3310, 3320, 3330, 3350, 3360, 3460, 3480, 3541, 3542, 3600, 3630, and 3930.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
2VAC5-585-15	None	Describes and defines violations that are “critical”, “non-critical”, and “swing”. Violations are categorized in order to track the reduction of violations that are more likely than others to contribute to foodborne disease.	Section is no longer needed because the categories of “Critical item” and “Noncritical item” have been replaced with “Priority item,” “Priority foundation item,” and “Core item” throughout the entire document.
2VAC5-585-40	None	Definitions section	Definitions for “Critical Item”, “Enterohemorrhagic Escherichia coli”, “°F”, and “Potentially hazardous food” have been removed as they are no longer necessary. Added/updated definitions for “CFR”, “Core Item”, “Cut-leafy greens”, “Food”, “Injected”, “Mechanically tenderized”, “Noncontinuous cooking”, “Packaged”, “pH”, “Poultry”, “Premises”, “Priority item”, “Priority foundation item”, “Reduced Oxygen Packaging”, “Shiga toxin-producing Escherichia coli”, and “Time/temperature control for safety food”. The additional definitions, along with the updated and expanded definitions, will provide greater clarification and understanding to the users of this regulation.
2VAC5-585-50	None	Requires assignment of responsibility to a person in charge during all hours of operation of a food establishment.	Added a new section that allows for separately inspected departments to have one person in charge of the operation. Allows industry flexibility without compromising food safety or public health.
None	2VAC5-585-55	None	Requires at least one employee to be a certified food protection manager. Requirement will not apply to minimal risk firms, deemed so by the department. Goes into effect 18 months after effective date of chapter. Necessary for the control of foodborne disease and assurance of food safety.
None	2VAC5-585-57	None	States when owners/operators are in compliance with 2VAC5-585-60 and 2VAC5-585-55. Necessary to ensure compliance with public health, foodborne

			disease, and food safety provisions of the regulation.
2VAC5-585-60	None	Requires that the person in charge demonstrate knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control Point principles, and the other requirements of the regulation. This section provides for numerous options for the demonstration of this knowledge.	Added conditional employee to the list of rights and responsibilities assigned by the regulation for the demonstration of knowledge. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-70	None	Identifies the responsibilities of the person in charge.	Employee training on allergy awareness is now required. Requires that employees are notified in a verifiable manner of their responsibility to report illness. Also, now includes a section on written procedures needing to be maintained. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-80	None	Requires person in charge to require employees or applicants who have been offered employment to report to the person in charge their health and activities as they relate to diseases that are transmissible through food.	Nontyphoidal Salmonella added to list of diagnosed illnesses. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-90	None	Requires exclusion or restriction within a food establishment by the person in charge of employees diagnosed with certain, identified diseases.	Nontyphoidal Salmonella added to list of diagnosed illnesses. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-100	None	Identifies when exclusions or restrictions of food employees diagnosed with certain diseases can be removed by the person in charge.	Nontyphoidal Salmonella added to list of diagnosed illnesses. Necessary for the control of foodborne disease and assurance of food safety.
None	2VAC5-585-125	None	Requires the firm to have procedures for cleaning up vomiting or diarrheal events. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-140	None	Identifies specific cleaning procedures of hands and arms.	Clarifies that washing includes surrogate prosthetic devices. Necessary to prevent contamination of foods by hands or prosthetic devices.
2VAC5-585-160	None	Identifies when employees must wash their hands.	Support animals have been changed to service animals. Change made to comply with common terminology. Requires that hands must be washed after handling

			aquatic animals. Clarifies that washing hands before donning gloves is only required prior to initiating a task that involves food. Necessary to prevent contamination of foods by hands.
2VAC5-585-180	None	Identifies acceptability for use of hand sanitizers and chemical hand sanitizing solutions.	Updated the requirements for complying with hand antiseptic components. Necessary to prevent contamination of foods by hands.
2VAC5-585-190	None	Requires employees to keep their fingernails clean and trimmed. Prohibits employees from wearing nail polish or artificial nails unless wearing gloves.	Separated the original wording into two subsections (A&B) for better clarification. Necessary for the control of foodborne disease and assurance of food safety and to prevent physical contamination of food.
2VAC5-585-220	None	Prohibits the employee from eating or drinking in food preparation and food storage areas.	Removed the wording requiring an employee drink to have a straw. Still requires a closed beverage container. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-250	None	Prohibits food employees from handling animals.	Support animals have been changed to service animals. Change made to comply with common terminology.
2VAC5-585-270	None	Identifies conditions necessary for food products to comply with all applicable laws and regulations.	Requires that food prepared in a home kitchen must be inspected and regulated by agency with jurisdiction. Updated section by removing molluscan shellfish and changing to species specified in 2VAC5-585-730B. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-295	None	Requires pre-packaged juice to be obtained from a processor with a HACCP system, pasteurized or otherwise treated to eliminate microorganisms of public health significance, or bear a warning statement that the juice may contain pathogens that may cause foodborne disease.	Removed warning label requirement. Warning Label is still required in section 2VAC5-585-795. Removes redundant requirement. Change made without compromising food safety or public health.
2VAC5-585-320	None	Requires that wild mushrooms be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert	Removed mushroom expert requirement and now requires department approval prior to food establishment selling/using wild mushrooms. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-330	None	Requires appropriate handling and processing of game animals received for sale or service.	Updated section to require either voluntary inspection by the state regulatory agency that has animal health jurisdiction or voluntary inspection by USDA for game animals that are commercially raised for food and sold in retail establishments.

			Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-400	None	Requires that raw, shucked shellfish bear a label that states the sell by date and has the name, address, and certification number of the shucker, packer, or repacker.	Changed one-half gallon from 1.87 L to 1.89 L. This was done to correct a mistake in the previous version of the regulation.
2VAC5-585-410	None	Significantly expands shellstock identification requirements to be consistent with the requirements of the National Shellfish Sanitation Program.	Updated the requirements for shellfish tags to meet industry standards. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-450	None	Food shall be prepared with a minimum of manual contact.	Allows for bare hand contact with ready to eat food that will be properly cooked. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-470	None	Requirements for protecting food from cross-contamination during storage, preparation, holding, and display.	Added section allowing for frozen, commercially packaged raw food to be stored above frozen, commercially packaged ready to eat food. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-490	None	Requires that pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods that are not thoroughly cooked, unless the food is not served to a highly susceptible population, and a consumer advisory is issued warning consumers about the dangers of consuming raw or undercooked animal foods.	Eggnog and ice cream added to list of foods that will require pasteurized egg or egg product. Necessary for the control of foodborne disease and assurance of food safety
2VAC5-585-510	None	Requires fruits and vegetables to be washed prior to human consumption. Also allows for the use of chemicals to clean the fruits and vegetables.	Allows for the on-site generation of chemicals used in washing fruit and vegetables. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-530	None	Packaged foods shall not be stored in contact with water or undrained ice.	Changed the word chicken to poultry. Change made to broaden terminology to include other species in addition to chicken.
2VAC5-585-540	None	Provides guidance on the type of surfaces that food can come in contact with.	Recognizes some linen, such as cloth napkins, as a food contact surface. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-600	None	Specifies requirements for refilling take-home food containers.	Changed/updated entire section with the requirements for take-out containers being refilled. Added new subsections that make a distinction between the container being used for a food or a beverage. Added a new



			subsection that allows consumers to use containers that are not food-specific when filled at a water vending machine. Necessary for the control of foodborne disease and assurance of food safety and allows industry flexibility without compromising food safety or public health.
2VAC5-585-700	None	Specifies the required cooking temperature and length of time for raw animal food.	Added mechanically tenderized meats to food that must be cooked to 155°F. Added baluts and ratites to food that must be cooked to 165°F. Added “upon consumer request of selection” to section which refers to raw/undercooked animal food. Added provision that prohibits comminuted meat from being offered for sale on a children’s menu. Necessary for the control of foodborne disease and assurance of food safety.
None	2VAC5-585-725	None	Allows for noncontinuous cooking of raw animal foods but requires department approval and written procedures. This provides some additional flexibility to the industry.
2VAC5-585-730	None	Requires appropriate freezing of fish before the sale or service of ready-to-eat raw, raw-marinated, partially cooked, or marinated- partially cooked fish (sushi) to destroy parasites.	Added shucked scallops and fish eggs removed from skein to the exempt list. Allows industry flexibility without compromising food safety or public health.
None	2VAC5-585-755	None	Clarifies that when cooked and refrigerated food is prepared for immediate service in response to an individual customer order the food can be served at any temperature. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-760	None	Requires potentially hazardous foods that have been cooked and then refrigerated to be reheated to 165° F before being placed in hot food storage holding units. Some flexibility is allowed with respect to commercially processed, hermetically sealed containers of food, intact packages of food from an appropriately inspected processing plant, and unsliced portions of roasts.	Clarified the section regarding the reheating of commercially processed food. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-780	None	Specifies the procedure for slacking time/temperature control for safety food.	Removed 45°F allowance. This was in the previous version of this chapter to allow time to adopt the 41°F requirement when it

			was first introduced. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-790	None	Specifies the procedures allowed for thawing food.	Removed 45°F allowance. This was in the previous version of this chapter to allow time to adopt the 41°F requirement when it was first introduced. Added section with the requirements for thawing reduced oxygen packaged fish. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-800	None	Requires rapid cooling to an internal temperature of 45° F of potentially hazardous foods following preparation.	Removed 45°F allowance. This was in the previous version of this chapter to allow time to adopt the 41°F requirement when it was first introduced. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-820	None	Specifies the temperatures allowed for hot and cold holding food.	Removed 45°F allowance. This was in the previous version of this chapter to allow time to adopt the 41°F requirement when it was first introduced. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-830	None	Requires date marking of refrigerated, ready-to-eat potentially hazardous food that is prepared and held by a food establishment for more than 24 hours, and establishes maximum holding times for such foods, based on storage temperature.	Removed 45°F allowance. This was in the previous version of this chapter to allow time to adopt the 41°F requirement when it was first introduced. Necessary for the control of foodborne disease and assurance of food safety.  Added section stating this requirement does not apply to shellstock. Updated wording regarding dry, fermented sausage and salt cured products. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-860	None	Requires a food establishment to obtain a variance from the Department if performing certain high-risk food operations that are traditionally not performed at the retail level.	Variance now requires control of <i>Listeria monocytogenes</i> . Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-870	None	Outlines the requirements necessary to package foods using a reduced oxygen packaging method when <i>Clostridium botulinum</i> is identified as a microbiological hazard in the final packaged food.	Added raw vegetables to list of food with high level of competing organisms. Changed discard date from 14 days to 30 days for reduced oxygen package foods. Clarified that bare hand contact with "ready-to-eat" food is prohibited. Added subdivision requiring submission of HACCP plan to the department prior to implementation. Changed discard date from 72 hrs to 7 days for cook-chill or sous-vide packaged TCS foods. Removed 38°F holding option for cook-chill or sous-vide.

			Clarified the wording about maintaining records. Added subsection about when a HACCP plan is not required. Necessary for the control of foodborne disease and assurance of food safety and allows industry flexibility without compromising food safety or public health.
2VAC5-585-900	None	Requires labeling of food products in packaged form	Specifies that subingredients and net quantity must be listed on the label. Added astaxanthin as needing to have its use disclosed. Necessary to ensure honest presentation to the consumer.
2VAC5-585-1300	None	Requires a variance and a HACCP plan for food establishments to use molluscan shellfish life support system display tanks.	Added requirement that display tanks be conspicuously marked so consumers know they are display only. Necessary for the control of foodborne disease associated with shellfish and assurance of food safety.
2VAC5-585-1310	None	Specifies characteristics and requirements for automatic shutoff of vending machines that vend potentially hazardous foods.	Removed 45°F allowance. This was in the previous version of this chapter to allow time to adopt the 41°F requirement when it was first introduced. Necessary for the control of foodborne disease and assurance of food safety
None	2VAC5-585-1435	None	Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with the requirements in the regulation. Necessary to ensure compliance with public health, foodborne disease and food safety provisions of the regulation.
2VAC5-585-1520	None	Requires in manual warewashing operations, a temperature measuring device be provided and readily accessible.	Added requirement that hot water mechanical warewashing operations have an irreversible registering temperature indicator provided. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-1530	None	Requires test kit or other device to measure concentration of sanitizing solutions.	Removed “and readily accessible for use” requirement for test kits. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-1570	None	Requires that equipment and equipment components be kept in good repair.	Removed the requirement to remove unused or nonfunctioning equipment from premises. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-1700	None	Specifies temperature and concentration requirements for chemical sanitizing solutions.	Changed exposure time to contact time. Updated minimum concentration levels in chart 1. Updated minimum temperature requirements for iodine. Changed manufacturer’s label to EPA-registered label use instructions throughout section. Added subsection about requirements for generating a chemical sanitizer on-site. Necessary for the control of foodborne disease and assurance of food safety.

2VAC5-585-1870	None	Specifies requirements for cleaning of returnable containers for refilling.	This section has been repealed. Its contents are covered under section 2VAC5-585-600. Change made without compromising food safety or public health.
None	2VAC5-585-1885	None	Equipment food-contact surfaces and utensils shall be sanitized. Necessary to ensure compliance with public health, foodborne disease and food safety provisions of the regulation.
2VAC5-585-1900	None	Specifies the time/temperature requirements for sanitizing equipment food-contact surfaces and utensils.	Exposure time changed to contact time. Requires contact times to be consistent with EPA-registered label use instructions. Necessary for the control of foodborne disease and assurance of food safety
2VAC5-585-1920	None	Specifies the laundering of linens, cloth gloves, and wiping cloths.	Added poultry to list of raw animal foods that would require cloth gloves to be washed after use. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-1960	None	Specifies that equipment and utensils must be air dried.	Changed Code of Federal Regulation reference to correct a mistake in the previous version of the regulation.
None	2VAC5-585-2045	None	States criteria for when rinsing clean/sanitized dishes is allowed. Necessary for the control of foodborne disease and assurance of food safety. This provides some additional flexibility to the industry.
2VAC5-585-2090	None	Requires that nondrinking water is only used if approved and only for nonculinary purposes.	Removed irrigation as a use for nondrinking water. Necessary for the control of foodborne disease, the assurance of food safety and environmental controls.
2VAC5-585-2120	None	Requires that the nonpublic water system sample report be maintained in the food establishment.	Requires firm to meet "peak" water demand. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-2190	None	Requires that water be delivered at a temperature of 100° F and that self-closing faucets flow for at least 15 seconds without the need to reactivate the faucet.	Added subsection about automatic handwashing facility. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-2250	None	Requires at least one service sink be provided.	Added subsection prohibiting the use of toilets and urinals as a service sink. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-2270	None	Specifies circumstances for use of a backflow prevention device with a carbonator.	Now requires a dual check valve attached to the carbonator. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-2280	None	Specifies that handwash sinks are readily accessible for employees in food preparation areas and in toilet rooms.	Changed wording from "readily accessible" to "allow convenient" with regard to the use of the handwash sink. Allows industry flexibility without compromising food safety or public health.

2VAC5-585-2320	None	Prohibits cross connections between drinking water and nondrinking water systems. Further requires that nondrinking water system piping is identified.	Removed the fire fighting exemption in section. Necessary for the control of foodborne disease and assurance of food safety.
None	2VAC5-585-2505	None	Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed according to law. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-2570	None	Requires sewage to be disposed through an approved facility that is either a public sewage treatment system or an individual sewage disposal system.	Clarifies that disposal must be in accordance with the Code of Virginia. Necessary for the control of foodborne disease and assurance of food safety.
None	2VAC5-585-2595	None	If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified in this chapter. Necessary to ensure compliance with public health, foodborne disease and food safety provisions of the regulation.
2VAC5-585-2930	None	Specifies that a food establishment must protect against the entry of insects and rodents.	Allows for limited use of exterior doors that are not self-closing. Added temporary food establishment to the exemption list in section. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-2990	None	Specifies that a room used for sleeping may not be used for food service operations.	Updated section to include a living area. Also updated to include a private home or an area directly opening into a room for living or sleeping. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-3000	None	Requires that sleeping quarters on the premises of a food establishment be separated by complete partitioning and self-closing doors.	Updated wording to include a living area. Added the examples of lodging clerk and resident managers. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-3030	None	Requires that handwashing sinks are equipped with paper towels, continuous towel system or heated-air hand drying device.	Now allows a hand-drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. Allows industry flexibility without compromising food safety or public health.
2VAC5-585-3040	None	Specifies that a sink used for food preparation or utensil washing may not be supplied with hand washing aids.	Added requirement that a service sink cannot be equipped with hand washing aids or devices. Necessary for the control of foodborne disease and assurance of food safety.
None	2VAC5-585-3047	None	A handwashing sink or group of adjacent handwashing sinks that is provided with

			disposable towels shall be provided with a waste receptacle. Necessary to ensure compliance with public health, foodborne disease and food safety provisions of the regulation.
2VAC5-585-3130	None	Requires that toilet rooms are conveniently located and accessible to employees during all hours of operation. Further states that toilets for customers must not be accessed through food preparation areas.	Removed requirement about toilets for use by customers not requiring travel through a food prep area. Unnecessary verbiage removed.
2VAC5-585-3240	None	Requires plumbing fixtures to clean and maintained.	Removed the requirement to be maintained as specified under 2VAC5-585-2310. Unnecessary verbiage removed.
2VAC5-585-3380	None	Requires that chemical sanitizers meet 40 CFR 180.940	Now includes chemical sanitizers generated on-site. Updated with new Code of Federal Regulations for sanitizers. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-3390	None	Requires that chemicals used to wash vegetables meet 21 CFR 173.315	Now includes chemical sanitizers generated on-site. Updated with new Code of Federal Regulations and chemicals that are "Generally Recognized As Safe." Added subsection B, which allows for the use of ozone. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-3410	None	Specifies the requirements that drying agents used in conjunction with sanitizers must meet.	Updated section with the addition of specific references from the Code of Federal Regulations and the federal Food, Drug, and Cosmetic Act. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-3450	None	Specifies that tracking powders may not be used in a food service establishment. Further specifies that if a non toxic tracking powder, such as flour, is used it may not contaminate food and food contact surfaces.	Updated wording in subsection A to exempt items used in subsection B. Necessary for the control of foodborne disease and assurance of food safety.
2VAC5-585-3510	None	Identifies requirements for the Department to apply this regulation to promote public health protection.	Updated section to include "honestly presented". Removed all the sub-requirements in subdivision B 4. Necessary for the control of foodborne disease and assurance of food safety
2VAC5-585-3600	None	Specifies when plans and specifications are required to be submitted to the Department for construction, conversion or remodeling of food establishments.	Requires plans "before" construction. Necessary for the control of foodborne disease, the assurance of food safety, and protection of public health.
2VAC5-585-	None	Specifies when a HACCP	Updated wording in section to clarify that it

3620		plan is required.	is referencing reduced oxygen packaging without a variance. Necessary for the control of foodborne disease, the assurance of food safety, and protection of public health.
None	2VAC5-585-3655	None	Requires staff to give a copy of the chapter to the operator during the initial inspection. Further states that if staff does not provide a copy of the chapter, the operator must still comply with the chapter. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
None	2VAC5-585-3660	None	States the responsibilities of the operator. Requires the operator to do 10 things; <ol style="list-style-type: none"> <li>1) Comply with the provisions of this chapter</li> <li>2) If required under 2VAC5-585-3620 to operate under a HACCP plan, comply with the plan as specified</li> <li>3) Immediately contact the department to report an illness of a food employee</li> <li>4) Immediately discontinue operations and notify the department if an imminent health hazard may exist</li> <li>5) Allow authorized representatives of the commissioner access to the food establishment</li> <li>6) Replace existing facilities and equipment as needed</li> <li>7) Comply with directives of the department including time frames for corrective actions</li> <li>8) Accept notices issued and served by the department according to law</li> <li>9) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter</li> <li>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</li> </ol> Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-3800	None	Addresses the Department's inspectional frequency for food establishments.	Removed first paragraph, the wording was deemed unnecessary.
2VAC5-585-3810	None	Outlines evaluation criteria for determining need of performance-based or risk-	Changed "critical" to "priority item" or "priority foundation item". Changed "noncritical" to "core item". Necessary to



		based inspections by the Department.	ensure compliance with public health, foodborne disease and food safety provisions of the regulation.
2VAC5-585-3820	None	Requires the person in charge to allow access to the food establishment by the Department's authorized representative during hours of operation and at other reasonable times.	Changed "identifies" to "provides notice of". Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-3840	None	Requires that details of refused entry be provided on an inspection report form.	Changed "identifies purpose of the inspection" to "provides notice". Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-3860	None	Identifies information and observations to be provided on an inspection report form by the authorized representative of the Commissioner.	Added conditional employees to list of people required to report. Removed requirement of employees to "demonstrate their knowledge of their responsibility" to report a disease. Changed "critical" to "priority items or priority foundation items". Necessary to ensure compliance with the provisions of the regulation.
2VAC5-585-3930	None	Requires timely correction of critical violations.	Changed "critical" to "priority items or priority foundation items". Changed the 10 calendar day time frame for correction of all violations to 72 hours for a priority item and 10 calendar days for a priority foundation item or HACCP plan deviation. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-3940	None	Requires the authorized representative of the Commissioner to enter corrective action on the inspection report after observing correction of a critical violation.	Changed "critical" to "priority items or priority foundation items". Updated wording in section regarding documentation of correction. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-3950	None	Requires correction of non-critical violations within 90 days or in accordance with a compliance schedule approved by the Department.	Changed "noncritical" to "core items". Necessary to ensure compliance with the provisions of the regulation.
2VAC5-585-4040	None	Requires the Department to act when it has reasonable cause to believe that a food employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected by a boil,	Added the word "food" before employee and added conditional employee. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.

		an infected wound or acute respiratory infection	
2VAC5-585-4050	None	Grants authority for the Department to request the restriction or exclusion of a food employee based on an investigation related to the food employee who is suspected of being infected or diseased.	Changed wording from "request" to "issue an order". Added subsection 3, giving the firm the option to "close in accordance with law". Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.
2VAC5-585-4060	None	Requires that the Department's request for restriction or exclusion must state the reasons for the requested restriction or exclusion, and the evidence that the food employee or operator shall provide to demonstrate that the reasons for restriction or exclusion are eliminated.	Changed wording from "make a request" to "issue an order". Allows the department to restrict the ill worker "without prior warning, notice of hearing, or a hearing". Changed wording in subsection 1 from "requested" to "ordered". Added subsection 3, that the employee or operator may request an appeal hearing. Added subsection 4, that the order must have the name and address of the individual the employee or operator must contact for the appeal hearing. Necessary to ensure compliance with public health, foodborne disease, and food safety provisions of the regulation.