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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-421
Regulation title(s)	Food Regulations
Action title	Amend Food Regulations to Comply with Chapter 450 of the 2018 Acts of Assembly
Final agency action date	July 11, 2018
Date this document prepared	June 18, 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 Orders 17 (2014) and 58 (1999), 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

A regulatory change to the Food Regulations (12VAC5-421 et seq.) is required in order to conform with changes made to the Code of Virginia during the 2018 Legislative Session (see Chapter 450 of the 2018 Acts of Assembly).

Chapter 450 amends §§ 35.1-1 and 35.1-25 of the Code of Virginia as follows: (1) codifies the definition of a "bed and breakfast operation", and (2) exempts any bed-and-breakfast operation, regardless of the time the food is prepared and offered, from the definition of "restaurant" and from the requirement for licensure as a restaurant in certain circumstances.

The Food Regulations contain a definition of a “bed and breakfast” and restricts such facilities from serving meals other than breakfast. Such language is now in conflict with the statutory language contained in Chapter 450, which becomes effective on July 1, 2018.

The final regulatory action would amend the Food Regulations by updating the regulatory definition of a “bed and breakfast operation” to align with the changes in Chapter 450. In addition, it would also amend the Food Regulations to expand when a bed and breakfast operation could offer food service to its guests without a food establishment permit by removing the requirement that breakfast be the only meal offered.

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.

The State Health Commissioner approved the final amendments to the Food Regulations on July 11, 2018, on behalf of the State Board of Health when the Board was not in session.

Family impact

Please assess the impact of this 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 final amendments to the Food Regulations will have no impact on the institution of family or family stability.