



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Health (State Board of Health)
Virginia Administrative Code (VAC) citation	12 VAC 5-421
Regulation title	Food Regulations
Action title	Amend to conform with 2007 FDA Food Code
Final agency action date	November 16, 2009
Document preparation date	November 16, 2009

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), the agency 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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Food Regulations establish minimum sanitary standards for operating restaurants. 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, procedures for vector and pest control, requirements for toilet and cleansing facilities for employees and customers, requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code, requirements for an approved water supply and sewage disposal system, personal hygiene standards for employees, particularly those engaged in food handling, and the appropriate use of precautions to prevent the transmission of communicable diseases. The regulations also inform potential restaurant owners or operators how to obtain a permit to operate a restaurant from the Department. The regulations are being amended to be consistent with the current 2007 supplement to the 2005 Food and Drug Administration's (FDA) Food Code. The current Food Regulations are based on the 2003 Supplement to the 2001 FDA Food Code. These changes are also being proposed concurrently with the Virginia Department of Agriculture and Consumer Services (VDACS) adoption of the 2007 Supplement to the 2005 FDA Food Code. Pursuant to § 35.1-14 C and E of the *Code of Virginia*, this action is exempt from portions of the Administrative Process Act (APA), provided VDACS adopts the same version and both agency's regulations have the same effective date.

Both agencies are working toward that end. Both VDH and VDACS previously adopted the 2003 supplement to the 2001 FDA Food Code with an effective date of October 16, 2007.

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.

1. The State Health Commissioner, acting on authority granted under §32.1-20, approved the final version of the Food Regulations on November 16, 2009 for publication in the Virginia Register and adoption with an **effective date of January 1, 2010**.
2. Virginia Department of Health
3. Food Regulations

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These regulations should not have any impact on the institution of family and family stability.
