



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 5-150
<b>Regulation title</b>	Regulations for the sanitary control of storing, processing, packing or repacking of oysters, clams and other shellfish
<b>Document preparation date</b>	12/17/2007

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

*Code of Virginia §28.2-800*

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

These regulations represent minimal requirements to protect the health of the shellfish consuming public with regard to their processing in Virginia. To eliminate any of these regulations would jeopardize the certification of the Virginia shellfish program by the US Food and Drug Administration (FDA). Loss of FDA's certification would mean that Virginia shellfish dealers could not ship their product out of state. As such, there are no viable alternatives to these regulations.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
No one	none	None

An informal advisory group was not formed for the purposes of assisting in the periodic review because these regulations have not been controversial for at least 20 years, or if ever after adoption in 1969.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

This regulation meets the criteria set forth in Executive Order 36. It has a bona fide purpose that makes sense in the 21<sup>st</sup> century; it does not exceed its statutory authority; it does not conflict with other regulations; it is necessary to protect public health, safety and welfare; and it does not impose unreasonable costs on the Commonwealth through monitoring and enforcement of the regulation.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

The Department of Health is recommending that the regulation stay in effect without change.

**Family impact**

*Please provide an analysis of the regulation’s impact on the institution of the family and family stability.*

1) Deletion of this regulation will neither strengthen nor erode the authority and rights of parents in the education, nurturing, and supervision of their children.

- 2) Deletion of this regulation will neither encourage nor discourage economic self-sufficiency, self-pride, nor the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents.
- 3) Deletion of this regulation will neither strengthen nor erode the marital commitment.
- 4) Deletion of this regulation will neither increase nor decrease disposable family income.