



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 5-165 – Regulations for the Repacking of Crabmeat
Department of Health
November 17, 2011

Summary of the Proposed Amendments to Regulation

These regulations pertain to the practice of transferring crab meat from one processor's container into the container of a different processor, primarily for marketing purposes. Specifically these regulations address the sanitation, product traceability, and labeling concerns associated with the situation where one processor would purchase crab meat packed by another certified crab meat processor, whether of a domestic or foreign origin, and repack the meat into the new processor's container. The Board of Health (Board) proposes amendments to these regulations that either align these regulations with federal regulations or reduce the regulatory burden for crab meat processing firms without negatively affecting public safety.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The Board proposes several amendments which will align these regulations with federal regulations. Most of these changes will not affect requirements in practice for crab meat processors since the current Virginia regulations are not more restrictive than the federal regulations. Other proposed changes will have some impact as described in the following paragraphs.

The Board proposes repealing 12VAC5-165-70 which states that the Department of Health, Division of Shellfish Sanitation (Division) should be contacted when any condition that may compromise the safety of the product exists. The Board has determined that this provision

is unnecessary and burdensome to both industry and the Division. The proposal to repeal this requirement will save staff time for both crab meat processors and the Division.

Under the current regulations (12VAC5-165-100), “When imported crab meat is used as a source for repacking, the repacker shall take a minimum of five samples from the first two shipments prior to any processing to be analyzed by a certified laboratory. ...” The Board proposes eliminating this requirement. According to the Division, in ten years of regulation experience there have been no known significant illnesses and the risk of contamination is very low as long as other required procedures are followed. If the other required procedures are not followed, any potential subsequent contamination would not have been detected at this sampling stage anyway. The Division estimates that it typically takes about a week for samples to be analyzed. (Virginia Tech provides the analysis for free.¹) This delays the sale of the crab meat and firms incur storage costs. Thus, the Board’s proposal to repeal this requirement will produce savings for crab meat processors through reduced time and storage costs without endangering public safety.

The current regulations (12VAC5-165-200) require that “Prior to or after repacking, the repacker shall pasteurize all imported crab meat which has not been pasteurized in the country of origin.” The Board proposes to eliminate this requirement. The Division and Board believe that the pasteurization requirement is not necessary for public safety. According to the Division, in ten years of regulation experience there have been no typhoid or hepatitis outbreaks and only one minor health problem perhaps linked to lack of pasteurization. One contacted crab meat firm stated that the cost of pasteurizing crab meat for a processor ranges from \$1.50 – \$2.00/ lb. A second contacted firm stated that the cost of pasteurizing crab meat for a processor depends on the container it is pasteurized in (bags and cans are used) and ranges from \$1.00 - \$3.00/lb. The Division believes that most firms will continue to pasteurize all or most of the imported crab meat they process due to the greatly enhanced shelf life of pasteurized meat. For those firms that choose to stop pasteurizing some of their crab meat there will be savings of from \$1.00 - \$3.00/lb.

The current regulations (12VAC5-165-290) state that “Any certified crab meat processor found to be packing or repacking foreign crab meat into a container without the country of origin

¹ Source: Virginia Department of Health, Division of Shellfish Sanitation

on the principal display panel will be decertified for 30 days, effective immediately upon the finding by the Director of the Division of Shellfish Sanitation.” Packing or repacking foreign crab meat into a container without the country of origin on the principal display panel is also a class 1 misdemeanor. The Board proposes to repeal this language since decertification for noncompliance of this regulation could potentially put the processor out of business and the Board and Division believe that a class 1 misdemeanor is adequately punitive to discourage noncompliance. This should produce a net benefit.

Businesses and Entities Affected

The Department of Health Division of Shellfish Sanitation currently certifies 19 crab meat processors.

Localities Particularly Affected

Certified crab meat processors are located primarily in coastal localities, which include, but are not limited to: Accomack County, Southampton County, Gloucester County, Hampton, Newport News, Urbanna, Montross and Deltaville.

Projected Impact on Employment

The proposed amendments will not likely significantly affect total employment. The proposal to repeal the requirement to contact the Division when any condition that may compromise the safety of the product exists will enable crab meat processor employees to use their time more productively.

Effects on the Use and Value of Private Property

The proposal to repeal the requirement to contact the Division when any condition that may compromise the safety of the product exists will enable crab meat processor employees to use their time more productively. The proposal to repeal the requirement for lab analysis of samples will provide savings for crab meat processors through reduced time and storage costs. Those processors who choose to take advantage of the proposed repeal of the pasteurization requirement will save from \$1.00 - \$3.00/lb of imported crab meat which has not been pasteurized in the country of origin.

Small Businesses: Costs and Other Effects

None of the proposed amendments will increase costs for small businesses. The proposal to repeal the requirement to contact the Division when any condition that may compromise the safety of the product exists will enable small crab meat processor employees to use their time more productively. The proposal to repeal the requirements for lab analysis of samples will provide savings for small crab meat processors through reduced time and storage costs. Those small processors who choose to take advantage of the proposed repeal of the pasteurization requirement will save from \$1.00 - \$3.00/lb of imported crab meat which has not been pasteurized in the country of origin.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed regulations do not adversely affect small businesses.

Real Estate Development Costs

The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a

description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.