

Virginia Retail Food Regulations

Virginia Department of Agriculture and Consumer Services · VDACS Food Safety Program

This newsletter highlights the major changes being made to the Retail Food Establishment Regulations for Enforcement of the Virginia Food Laws. Although this is not a comprehensive list, a copy of the changes is available for viewing at <http://townhall.virginia.gov/L/ViewXML.cfm?textid=10668>. A full version of the new regulations will be available for viewing at <http://law.lis.virginia.gov/admincodeexpand/title2/agency5/chapter585/> on or after July 12, 2016.

Categorizing Violation Significance

In the previous version of the regulation, violations were either critical or non-critical. This has been updated and is as follows from least significant to most significant. Each category has associated timeframes for correction by the firm.

- ◆ Core item: 90 days to correct violations
- ◆ Priority foundation item: 10 calendar days to correct violations
- ◆ Priority item: 72 hours to correct violations



July 2016

Special points of interest:

- ⇒ [Categorizing Violation Significance](#)
- ⇒ [Time/Temperature Control for Safety Food \(TCS Food\)](#)
- ⇒ [Certified Food Protection Manager \(CFPM\)](#)
- ⇒ [Reportable Illnesses](#)
- ⇒ [Clean-up of a Vomiting or Diarrheal Event](#)
- ⇒ [Wild Mushrooms](#)
- ⇒ [Mechanical Dishwashing Machines](#)
- ⇒ [Non-Continuous Cooking](#)
- ⇒ [Thawing Frozen Fish](#)
- ⇒ [Water Sampling](#)
- ⇒ [Responsibilities of the Operator](#)
- ⇒ [HACCP](#)

Time/Temperature Control for Safety Food (TCS Food)

This term now replaces the term potentially hazardous food (PHF). This substitution will be seen throughout the regulation. TCS foods include, but are not limited to, the following: animal food that is raw or cooked, a plant food that is cooked, raw seed sprouts, cut melons, some cut tomatoes and some garlic-in-oil mixtures.

Newly added to this list are cut leafy greens that include, but are not limited to, the following: iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce, escarole, endive, spring mix, spinach, kale, arugula, chard and cabbage. Fresh herbs are not included in this list.



Certified Food Protection Manager (CFPM)

One individual at the firm must be a CFPM. It is not required that there be a CFPM present during all hours of operation. It is the responsibility of the CFPM to relay their knowledge gained through their training to the other employees. Food establishments that offer beverage service or serve, sell or distribute only prepackaged foods and beverages are exempt from the requirement to have a CFPM.

The course taken to become a CFPM must be recognized by Conference for Food Protection. This list includes the following:

1. 360training.com, Inc
2. National Registry of Food Safety Professionals
3. National Restaurant Association
4. Prometric Inc

The local health department may also provide Certified Food Protection Manager Courses. Please contact the local health department for additional information.



Reportable Illnesses



A new provision in the regulation now requires that employees are notified in writing, or other verifiable manner, of their responsibility to report illness. This is satisfied by having an employee health policy signed by each employee. Form 1-B Conditional Employee or Food Employee Reporting Agreement is included as a link on the VDACS website. This form can be used as your policy or you can choose to create a policy that meets the requirements.

The Big Six

In the past, five illnesses were required to be reported by employees to management, and from management to VDACS. Nontyphoidal *Salmonella* has been added as the sixth reportable illness, in addition to the existing list of Norovirus, Hepatitis A virus, Shigella spp., Shiga-toxin producing Escherichia coli, and *Salmonella* Typhi. An updated employee health policy must include all six of these agents.

The illness must be reported if the employee is diagnosed, or if someone they are in close quarters with is diagnosed, e.g., same household or workplace. It is important to remember that just because an individual is not exhibiting symptoms of a foodborne illness this does not mean they aren't carrying the disease.

Clean-up of a Vomiting or Diarrheal Event



Norovirus has become the leading cause of gastroenteritis, an infection of the intestinal tract causing vomiting or diarrhea. When a vomiting or diarrhea event occurs in a food establishment, it can be highly infectious due to the airborne droplets carrying Norovirus particles to surrounding surfaces and its persistence to survive on hard surfaces for days. It can be

transmitted through food or person-to-person contact. The regulation will now require that firms have procedures in place that outline what will be done in an event of vomiting or diarrhea. The procedures shall address the specific actions designated employees must take to minimize the spread of contamination and the exposure of employees, customers, food, and surfaces to the fluids. A

sample procedure titled "Cleaning and Disinfecting Procedures" has been created and is available on the VDACS website. If you choose not to use the document, a similar one must be created following guidelines in Annex 3 of the 2013 Food Code.



Wild Mushrooms

Establishments wishing to sell mushrooms picked in the wild must now request permission from VDACS before sale has begun. This requirement does not apply to cultivated mushrooms under inspection by VDACS or to wild mushrooms that are received by the retail store packaged from a food manufacturer under inspection by VDACS or other regulatory agency.



If you have a mechanical dishwasher that utilizes hot water for sanitizing, an irreversible registering temperature indicator must be provided and readily accessible for measuring the utensil or equipment surface temperature.



Non-Continuous Cooking

This is a new method for cooking food that allows food to be partially cooked, cooled, and then fully cooked prior to sale. Some guidelines must be followed:

- Written procedures are supplied to and approved by VDACS prior to implementation
- Initial heating is no longer than 60 minutes
- Partially cooked product is immediately cooled after cooking and held below 41°F
- Product is reheated to appropriate temperatures for sale or service



Thawing Frozen Fish

For fish that is packaged in a reduced oxygen package and that is labeled to remain frozen until use, it must be removed from the package either:

1. Prior to it being thawed under refrigeration OR
2. Prior to, or immediately after, thawing the fish under running water.



Water Sampling

As the operator of a food establishment using water from a private well, you are required to have the water tested every 12 months. Sampling must include presence of total coliform bacteria and presence of nitrate. These test results must be kept on file at your establishment for 5 years and be made available to the inspector for review upon request. In the event of results showing levels of nitrate above 10 mg/l or presence of coliform bacteria, refer to 2VAC5-585-2100 for follow-up actions.

Links for Additional Information:

- [Form 1-B Conditional Employee or Food Employee Reporting Agreement and Cleaning and Disinfecting Procedures](#)
- <http://www.vdacs.virginia.gov/dairy-food-stores-and-frozen-dessert-shops.shtml>
- [Application for Variance Request and HACCP Plan Submission](#)
- <http://www.vdacs.virginia.gov/pdf/variance-request-application.pdf>

Responsibilities of the Operator

This new section in the regulation lists responsibilities of the firm operator. They are as follows:

VDACS Food Safety Regional Offices

<p>Northern Virginia 102 Governor St., PO Box 1163 Richmond, VA 23218 804.786.3520</p>
<p>Tidewater 5700 Thurston Ave, Suite 104 Virginia Beach, VA 23455 757.363.3840</p>
<p>Southwest Virginia 2943-E Peters Creek Rd. Roanoke, VA 24019 540.562.3641</p>

1. Comply with the provisions of this chapter
2. If required under 2VAC5-585-3620 to operate under a HACCP plan, comply with the plan as specified
3. Immediately contact the department* to report an illness of a food employee
4. Immediately discontinue operations and notify the department* if an imminent health hazard may exist
5. Allow authorized representatives of the VDACS commissioner access to the food establishment
6. Replace existing facilities and equipment as needed
7. Comply with directives of the department* including time frames for corrective actions
8. Accept notices issued and served by the department* according to law
9. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter
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

* The Virginia Department of Agriculture and Consumer Services (VDACS)

H A C C P

Some changes to the regulation have been made with regard to variance requests and HACCP Plans. If you would like to conduct any of the following activities at your firm, you must contact VDACS for approval before proceeding with the activity. The "Application for Variance Request and HACCP Plan Submission" is provided to clarify the components required for submission.

The following processes require that you request a variance and submit a HACCP plan:

- ◆ Smoking food as a method of food preservation rather than as a method of flavor enhancement;
- ◆ Curing food;
- ◆ Using food additives or adding components, such as vinegar, either as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not time/temperature control for safety food;
- ◆ Packaging time/temperature control for safety food using a reduced oxygen packaging method;
- ◆ Operating a molluscan shellfish life-support system

display tank used to store or display shellfish that are offered for human consumption;

- ◆ Custom processing animals that are for personal use as food and not for sale or service in a food establishment;
- ◆ Sprouting seeds or beans; or
- ◆ Preparing food by another method that is determined by the department to require a variance

