

Virginia Administrative Code  
Title 12. Health  
Agency 5. Department Of Health  
Chapter 421. Food Regulations

## Part I. Definitions, Purpose, and Administration

### 12VAC5-421-10. Definitions.

A. Section 35.1-1 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter.

"Board"

"Commissioner"

"Department"

B. For the purposes of implementing this chapter, the term "food establishment" as defined herein is equivalent to the term "restaurant" as defined in § 35.1-1 of the Code of Virginia.

C. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards that certify individuals. "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, recertification, discipline and grievance procedures; and test development and administration. "Accredited program" does not refer to training functions or educational programs.

"Additive" means either a (i) "food additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.3(e)(1) or (ii) "color additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.3(f).

"Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 402.

"Agent" means a legally authorized representative of the owner.

"Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Approved water system" means a permitted waterworks constructed, maintained, and operated pursuant to 12VAC5-590, Waterworks Regulations; or a private well constructed, maintained, and operated pursuant to 12VAC5-630, Private Well Regulations.

"Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not

exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

" $a_w$ " means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol  $a_w$ .

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

"Bed and breakfast operation" means a residential-type establishment that provides (i) two or more rental accommodations for transient guests and food service to a maximum of 18 transient guests on any single day for five or more days in any calendar year or (ii) at least one rental accommodation for transient guests and food service to a maximum of 18 transient guests on any single day for 30 or more days in any calendar year.

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Building official" means a representative of the Department of Housing and Community Development.

"Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

"Catering operation" means a person who contracts with a client to prepare a specific menu and amount of food in a permitted food establishment for service to the client's guests or customers at a service location different from the permitted food establishment. Catering may also include cooking or performing final preparation of food at the service location.

"Catering operation" does not include:

1. A private chef or cook who, as the employee of a consumer, prepares food solely in the consumer's home.
2. Delivery service of food by an approved and permitted food establishment to an end consumer.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"CFR" means Code of Federal Regulations. Citations in this chapter to the CFR refer sequentially to the title, part, and section number, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

"Clean in Place" or "CIP" means cleaned in place by the circulation or flowing by mechanical

means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. "CIP" does not include the cleaning of equipment such as band saws, slicers or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"Comingle" means:

1. To combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or
2. To combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. "Comminuted" includes (i) fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage and (ii) a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Commissary" means a food establishment in which food, food containers, or supplies are kept, handled, prepared, packaged, or stored for distribution to satellite operations.

"Commonwealth" means the Commonwealth of Virginia.

"Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Core item" means a provision in this chapter that is not designated as a priority item or a priority foundation item. Core item includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

"Corrosion-resistant materials" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Counter-mounted equipment" means equipment that is not portable and is designed to be

mounted off the floor on a table, counter, or shelf.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of a shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program and is listed in the U.S. Food and Drug Administration's Interstate Certified Shellfish Shippers List, updated monthly (U.S. Food and Drug Administration).

"Director" means the district or local health director.

"Disclosure" means a written statement that clearly identifies the animal derived foods that are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not time/temperature control for safety food and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;
2. Is dependent on the material, design, construction, and installation of the surface; and
3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

"Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in this definition to different situations in which varying degrees of cleanability are required such as:

1. The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or
2. The need for a different degree of cleanability for a utilitarian attachment or accessory in

the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

"Easily movable" means:

1. Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and
2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. Egg does not include a balut; egg of the reptile species such as alligator; or an egg product.

"Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen, or liquid eggs. Egg product does not include food that contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a food establishment.

"Equipment" includes items such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. Equipment does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption and includes an edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

"Food" means (i) a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or (ii) chewing gum.

"Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

"Food-contact surface" means a surface of equipment or a utensil with which food normally comes into contact, or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food establishment" means an operation that (i) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food to the public for human consumption, such as a restaurant, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, conveyance used to transport people, institution, or food bank, and (ii) relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

"Food establishment" includes (i) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted under this chapter; and (ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location where consumption is on or off the premises and regardless of whether there is a charge for the food.

"Food establishment" does not include:

1. An establishment that offers only prepackaged food that is not time/temperature control for safety food;
2. A produce stand that only offers whole, uncut fresh fruits and vegetables; or
3. A food processing plant, including those that are located on the premises of a food establishment.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants or food establishments. Food processing plant does not include a food establishment.

"Game animal" means an animal, the products of which are food, that is not classified as (i) livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2; (ii) poultry; or (iii) fish. "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat and nonaquatic reptiles such as land snakes. "Game animal" does not include ratites.

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

"Grade A standards" means the requirements of the Grade "A" Pasteurized Milk Ordinance, 2017 Revision (U.S. Food and Drug Administration), with which certain fluid and dry milk and milk products comply.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of hands. Handwashing sink includes an automatic handwashing facility.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Hazard Analysis and Critical Control Point" or "HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:

1. Immunocompromised, preschool age children, or older adults; and
2. Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Injected" means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping."

"Intact meat" means a cut of whole muscle meat that has not undergone comminution, injection, mechanical tenderization, or reconstruction.

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. Juice does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and federal statutes, regulations, and ordinances.

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from one of these foods. Major food allergen does not include any highly refined oil derived from a major food allergen in this definition and any ingredient derived from such highly refined oil or any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (P.L. 108-282).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under 12VAC5-421-330 A 2 and A 3.

"Mechanically tenderized" means manipulating meat with deep penetration by processes which may be referred to as "blade tenderizing," "jaccarding," "pinning," "needling," or using blades, pins, needles, or any mechanical device. "Mechanically tenderized" does not include processes by which solutions are injected into meat.

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

"Mobile food unit" means a food establishment mounted on wheels (excluding boats in the water) readily moveable from place to place at all times during operation and shall include pushcarts, trailers, trucks, or vans. The unit, all operations, and all equipment must be integral to and be within or attached to the unit.

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

"Noncontinuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. "Noncontinuous cooking" does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

"Occasional" means not more than one time per week, and not in excess of two days duration.

"Packaged" means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

"Permit" means a license issued by the department that authorizes a person to operate a food establishment.

"Permit holder" means person that is legally responsible for the operation of the food



establishment and possesses a valid permit to operate a food establishment.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. Personal care items include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

"Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

1. Cleaners and sanitizers, that include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
2. Pesticides, except sanitizers, that include substances such as insecticides and rodenticides;
3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants, paints, and personal care items that may be deleterious to health; and
4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Potable water" means water fit for human consumption that is obtained from an approved

water supply and that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia). Potable water is traditionally known as drinking water and excludes such nonpotable forms as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking water."

"Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1, and any migratory waterfowl, game bird, pheasant, partridge, quail, grouse, or pigeon whether live or dead, as defined in 9 CFR 362.1.

"Premises" means the physical facility, its contents, and the contiguous land or property under the control of the permit holder; or the physical facility, its contents, and the land or property which are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

"Priority foundation item" means a provision in this chapter whose application supports, facilitates, or enables one or more priority items. "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling and is denoted in this regulation with a superscript Pf-<sup>Pf</sup>.

"Priority item" means a provision in this chapter whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, and handwashing and is denoted in this chapter with a superscript P-<sup>P</sup>.

"Private well" means any water well constructed for a person on land that is owned or leased by that person and is usually intended for household, groundwater source heat pump, agricultural use, industrial use, or other nonpublic water well.

"Pure water" means potable water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served (see §§ 32.1-167 and 32.1-176.1 of the Code of Virginia and 12VAC5-590, Waterworks Regulations and 12VAC5-630, Private Well Regulations. Potable water is traditionally known as drinking water, and excludes such nonpotable forms as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking water."

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Ready-to-eat food" means food that:

1. Is in a form that is edible without additional preparation to achieve food safety, as specified under 12VAC5-421-700 A, B, and C, 12VAC5-421-710 or 12VAC5-421-730;
2. Is a raw or partially cooked animal food and the consumer is advised as specified under 12VAC5-421-700 D 1 and 3; or
3. Is prepared in accordance with a variance that is granted as specified under 12VAC5-421-700 D 4.

"Ready-to-eat food" may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" includes:

1. Raw animal food that is cooked as specified under 12VAC5-421-700, or 12VAC5-421-710 or frozen as specified under 12VAC5-421-730;
2. Raw fruits and vegetables that are washed as specified under 12VAC5-421-510;
3. Fruits and vegetables that are cooked for hot holding as specified under 12VAC5-421-720;
4. All time/temperature control for safety food that is cooked to the temperature and time required for the specific food under Article 4 (12VAC5-421-700 et seq.) of Part III and cooled as specified in 12VAC5-421-800;
5. Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed;
6. Substances derived from plants such as spices, seasonings, and sugar;
7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
8. The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
9. Food manufactured as specified in 21 CFR Part 113.

"Reduced oxygen packaging" means the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and a process as specified in this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form. Reduced oxygen packaging includes:

1. Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;
2. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air, but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;
3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;
4. Cook chill packaging, in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens; or
5. Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

"Refuse" means solid waste not carried by water through a sewage system.

"Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Re-service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR Part 590.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 and that is limited to use by or under the direct supervision of a certified applicator.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" means an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in § 409 of the Federal Food, Drug, and Cosmetic Act (21 USC § 348); or other materials that are not additives and that are used in conformity with applicable regulations of the FDA.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

"Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution. Sewage includes water-carried and non-water-carried human excrement or kitchen, laundry, shower, bath, or lavatory waste separately or together with such underground surface, storm, or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments, or other places.

"Shellfish control authority" means a state, federal, foreign, tribal or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce such as the Virginia Department of Health Division of Shellfish Sanitation.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shiga toxin-producing *Escherichia coli*" or "STEC" means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild nonbloody diarrhea to hemorrhagic colitis (i.e., bloody diarrhea) to hemolytic uremic syndrome (HUS), which is a type of kidney failure. Examples of serotypes of STEC include *E. coli* 0157:H7, *E. coli* 0157:NM, *E. coli* 026:H11; *E. coli* 0145:NM, *E. coli* 0103:H2, and *E. coli* 0111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic *E. coli*) or as EHEC (Enterohemorrhagic *E. coli*). EHEC are a subset of STEC that can cause hemorrhagic colitis or HUS.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength, and cleanability specifications contained in 12VAC5-421-960, 12VAC5-421-1080, and 12VAC5-421-1100 for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number three stainless steel; a non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Substantial compliance" means equipment or structure design or construction; food preparation, handling, storage, transportation; or cleaning procedures that will not substantially affect health consideration or performance of the facility or the employees.

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Temporary food establishment" means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

"Time/temperature control for safety food" or "TCS food" means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation:

1. TCS food includes an animal food that is raw or heat treated; a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and except as specified in subdivision 2 d of this definition, a food that because of the interaction of its  $A_w$  and pH values is designated as product assessment required (PA) in Table A or B of this definition:

Table A. Interaction of pH and $A_w$ for control of spores in food heat treated to destroy vegetative cells and subsequently packaged.			
$A_w$ values	pH values		
	4.6 or less	>4.6 - 5.6	>5.6

0.92	non-TCS food*	non-TCS food	non-TCS food
>0.92 - 0.95	non-TCS food	non-TCS food	PA**
>0.95	non-TCS food	PA	PA
*TCS food means time/temperature control for safety food			
**PA means product assessment required			

  

Table B. Interaction of pH and $A_w$ for control of vegetative cells and spores in food not heat treated or heat treated but not packaged.				
$A_w$ values	pH values			
	<4.2	4.2 - 4.6	>4.6 - 5.0	>5.0
<0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 - 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
>0.90 - 0.92	non-TCS food	non-TCS food	PA	PA
>0.92	non-TCS food	PA	PA	PA
*TCS food means time/temperature control for safety food				
**PA means product assessment required				

2. TCS food does not include:

- a. An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;
- b. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
- c. A food that because of its pH or  $A_w$  value, or interaction of  $A_w$  and pH values, is designated as a non-TCS food in Table A or B of this definition;
- d. A food that is designated as PA in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
  - (1) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;
  - (2) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf-life and use, or temperature range of storage and use; or
  - (3) A combination of intrinsic and extrinsic factors; or
- e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subdivisions 2 a through 2 d of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single service, or single use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices and probe-type price or identification tags used in contact with food.

"Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, key, electronic transaction, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

"Waterworks" means a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year.

"Waterworks" includes all structures, equipment and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

**Statutory Authority**

§§35.1-11 and 35.1-14 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 35, Issue 1, eff. October 3, 2018; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-20. [Reserved].**

Statutory Authority

Historical Notes

**12VAC5-421-30. Purpose.**

This chapter has been promulgated by the board to specify the following requirements to



protect public health:

1. A procedure for obtaining a license (permit);
2. Criteria for assuring the safe preparation, handling, protection and/or temperature control for food;
3. Criteria for the safe and sanitary maintenance, storage, operation and use of equipment;
4. Requirements that food establishments utilize an approved water supply and sewage disposal system;
5. Requirements for toilet and cleansing facilities for employees;
6. Criteria for vector and pest control;
7. Requirements for the sanitary maintenance and use of food establishment's physical plant;
8. Requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; and
9. A classification system for food establishments.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-40. Administration of regulation.

This chapter is administered by the following:

1. The board has responsibility to promulgate, amend and repeal regulations necessary to protect the public health.
2. The commissioner is the chief executive officer of the department. The commissioner has the authority to act within the scope of regulations promulgated by the board and for the board when it is not in session.
3. The director is responsible for the permitting and inspection of food establishments located within the director's district and for assuring compliance with this chapter.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia

Register Volume 37, Issue 18, eff. June 10, 2021.

## Part II. Management and Personnel

### Article 1. Supervision

#### 12VAC5-421-50. Assignment of responsibility.

A. Except as specified in subsection B of this section, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.<sup>Pf</sup>

B. In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Errata, 26:9 VA.R. 1316 January 4, 2009; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-55. Certified food protection manager.

A. At least one employee with supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager, demonstrating proficiency of required knowledge and information through passing a test that is part of an accredited program.

B. This section does not apply to food establishments that serve only non-time/temperature control for safety food and food establishments that store and prepare food only to the extent that they reheat or cold hold commercially processed, fully cooked time/temperature control for safety foods. Food establishments exempt from the certified food protection manager requirement may not cool time/temperature control for safety foods.

C. The person in charge shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. For purposes of enforcing this subsection, this requirement take effect on June 24, 2023.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021; Errata 37:23 VA.R. XXX July 5, 2021.

## 12VAC5-421-60. Demonstration of knowledge.

Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the department knowledge of foodborne disease prevention, and the requirements of this chapter. The person in charge shall demonstrate this knowledge by:

1. Complying with this chapter by having no violations of priority items during the current inspection;<sup>Pf</sup>
2. Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program;<sup>Pf</sup> or
3. Responding correctly to the environmental health specialist's questions as they relate to the specific food operation. The areas of operation may include:
  - a. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;<sup>Pf</sup>
  - b. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;<sup>Pf</sup>
  - c. Describing the symptoms associated with the diseases that are transmissible through food;<sup>Pf</sup>
  - d. Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness;<sup>Pf</sup>
  - e. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;<sup>Pf</sup>
  - f. Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish;<sup>Pf</sup>
  - g. Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of time/temperature control for safety food;<sup>Pf</sup>
  - h. Describing the relationship between the prevention of foodborne illness and the management and control of the following:
    - (1) Cross contamination;<sup>Pf</sup>
    - (2) Hand contact with ready-to-eat foods;<sup>Pf</sup>
    - (3) Handwashing;<sup>Pf</sup> and

- (4) Maintaining the food establishment in a clean condition and in good repair;<sup>Pf</sup>
- i. Describing the foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction;<sup>Pf</sup>
- j. Explaining the relationship between food safety and providing equipment that is:
- (1) Sufficient in number and capacity;<sup>Pf</sup> and
- (2) Properly designed, constructed, located, installed, operated, maintained, and cleaned;<sup>Pf</sup>
- k. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;<sup>Pf</sup>
- l. Identifying the source of water used and measures taken to ensure that the water supply remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;<sup>Pf</sup>
- m. Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;<sup>Pf</sup>
- n. Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this chapter;<sup>Pf</sup>
- o. Explaining the details of how the person in charge and food employees comply with a HACCP plan if such a plan is required by law, this chapter, or an agreement between the department and the food establishment;<sup>Pf</sup>
- p. Explaining the responsibilities, rights, and authorities assigned by this chapter to the:
- (1) Food employee;<sup>Pf</sup>
- (2) Conditional employee;<sup>Pf</sup>
- (3) Person in charge;<sup>Pf</sup> and
- (4) Department;<sup>Pf</sup> and
- q. Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and the exclusion or restriction of food employees.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-65. Food protection manager certification.

A. A person in charge who demonstrates knowledge by being a food protection manager who is certified by a food protection manager certification program that is evaluated by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, (Conference for Food Protection) is deemed to comply with subdivision 2 of 12VAC5-421-60.

B. A food establishment that has an employee who is certified by a food protection certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, (Conference for Food Protection) is deemed to comply with 12VAC5-421-55.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-70. Duties of person in charge.

The person in charge shall ensure that:

1. Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under 12VAC5-421-2990;<sup>Pf</sup>
2. Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;<sup>Pf</sup>
3. Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this chapter;<sup>Pf</sup>
4. Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;<sup>Pf</sup>
5. Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the

employees' observations and periodically evaluating foods upon their receipt;<sup>Pf</sup>

6. Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;<sup>Pf</sup>

7. Employees are properly cooking time/temperature control for safety food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under 12VAC5-421-1180 and 12VAC5-421-1730 B;<sup>Pf</sup>

8. Employees are using proper methods to rapidly cool time/temperature control for safety food that is not held hot or is not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;<sup>Pf</sup>

9. Employees are properly maintaining the temperatures of time/temperature control for safety food during hot and cold holding through daily oversight of the employees routine monitoring of food temperatures;<sup>Pf</sup>

10. Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 12VAC5-421-930 that the food is not cooked sufficiently to ensure its safety;<sup>Pf</sup>

11. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;<sup>Pf</sup>

12. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified in 12VAC5-421-590;<sup>Pf</sup>

13. Except when approval is obtained from the department as specified in 12VAC5-421-450 E, employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;<sup>Pf</sup>

14. Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;<sup>Pf</sup>

15. Food employees and conditional employees are informed in a verifiable manner of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under 12VAC5-421-80;<sup>Pf</sup> and

16. Written procedures and plans, where specified by this chapter and as developed by the food establishment, are maintained and implemented as required.<sup>Pf</sup>

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## Article 2. Employee Health

### 12VAC5-421-80. Responsibility of permit holder, person in charge, and conditional employees.

A. The permit holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

1. Has any of the following symptoms:

- a. Vomiting;<sup>P</sup>
- b. Diarrhea;<sup>P</sup>
- c. Jaundice;<sup>P</sup>
- d. Sore throat with fever;<sup>P</sup> or
- e. A lesion containing pus such as a boil or infected wound that is open or draining and is:
  - (1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;<sup>P</sup>
  - (2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover;<sup>P</sup> or
  - (3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;<sup>P</sup>

2. Has an illness diagnosed by a health practitioner due to:

- a. Norovirus;<sup>P</sup>
- b. Hepatitis A virus;<sup>P</sup>
- c. Shigella spp.;<sup>P</sup>

- d. Shiga toxin-producing *Escherichia coli*;<sup>P</sup>
- e. Typhoid fever (caused by *Salmonella typhi*);<sup>P</sup> or
- f. *Salmonella* (nontyphoidal);<sup>P</sup>

3. Had Typhoid fever, diagnosed by a health practitioner, within the past three months, without having received antibiotic therapy, as determined by a health practitioner;<sup>P</sup>

4. Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:

- a. Norovirus within the past 48 hours of the last exposure;<sup>P</sup>
- b. Shiga toxin-producing *Escherichia coli*, or *Shigella* spp. within the past three days of the last exposure;<sup>P</sup>
- c. Typhoid fever (caused by *Salmonella typhi*) within the past 14 days of the last exposure;<sup>P</sup> or
- d. Hepatitis A virus within the past 30 days of the last exposure;<sup>P</sup> or

5. Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as and has knowledge about, an individual diagnosed with an illness caused by:

- a. Norovirus within the past 48 hours of the last exposure;<sup>P</sup>
- b. Shiga toxin-producing *Escherichia coli* or *Shigella* spp. within the past three days of the last exposure;<sup>P</sup>
- c. Typhoid fever (caused by *Salmonella typhi*) within the past 14 days of the last exposure;<sup>P</sup> or
- d. Hepatitis A virus within the past 30 days of the last exposure.<sup>P</sup>

B. The person in charge shall notify the department when a food employee is:

- 1. Jaundiced;<sup>Pf</sup> or
- 2. Diagnosed with an illness due to a pathogen as specified under subdivisions A 2 a through f of this section.<sup>Pf</sup>

C. The person in charge shall ensure that a conditional employee:

- 1. Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under subdivisions A 1, 2, and 3 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 12VAC5-421-100;<sup>P</sup> and



2. Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under subdivisions A 4 and 5 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria specified under subdivision 10 of 12VAC5-421-100.<sup>P</sup>

D. The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or history of exposure as specified under subdivisions A 1 through 5 of this section is:

1. Excluded as specified under subdivisions 1, 2, and 3 of 12VAC5-421-90, and subdivision 4 a, 5 a, 6 a, 7, or 8 a of 12VAC5-421-90 and in compliance with the provisions specified under subdivisions 1 through 8 of 12VAC5-421-100;<sup>P</sup> or

2. Restricted as specified under subdivision 4 b, 5 b, 6 b, or 8 b of 12VAC5-421-90, or subdivision 9 or 10 of 12VAC5-421-90 and in compliance with the provisions specified under subdivisions 4 through 10 of 12VAC5-421-100.<sup>P</sup>

E. A food employee or conditional employee shall report to the person in charge the information as specified under subsection A of this section.<sup>Pf</sup>

F. A food employee shall:

1. Comply with an exclusion as specified under subdivisions 1, 2, and 3 of 12VAC5-421-90 and subdivision 4 a, 5 a, 6 a, 7, or 8 a of 12VAC5-421-90 and with the provisions specified under subdivisions 1 through 8 of 12VAC5-421-100;<sup>P</sup> or

2. Comply with a restriction as specified under subdivision 4 b, 5 b, 6 b, 7, or 8 b of 12VAC5-421-90, or subdivision 8, 9, or 10 of 12VAC5-421-90 and comply with the provisions specified under subdivisions 4 through 10 of 12VAC5-421-100.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-90. Exclusions and restrictions.

The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

1. Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

a. Symptomatic with vomiting or diarrhea;<sup>P</sup> or

b. Symptomatic with vomiting or diarrhea and diagnosed with an infection from

Norovirus, Shigella spp., Salmonella (nontyphoidal), or Shiga toxin-producing Escherichia coli.<sup>P</sup>

2. Exclude a food employee who is:

a. Jaundiced and the onset of jaundice occurred within the last seven calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by Hepatitis A virus or other fecal-orally transmitted infection;<sup>P</sup>

b. Diagnosed with an infection from Hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within seven calendar days of the onset of jaundice;<sup>P</sup>  
or

c. Diagnosed with an infection from Hepatitis A virus without developing symptoms.<sup>P</sup>

3. Exclude a food employee who is diagnosed with Typhoid fever, or reports having had Typhoid fever within the past three months as specified in 12VAC5-421-80 A 3.<sup>P</sup>

4. If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population;<sup>P</sup> or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.<sup>P</sup>

5. If a food employee is diagnosed with an infection from Shigella spp. and is asymptomatic:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population;<sup>P</sup> or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.<sup>P</sup>

6. If a food employee is diagnosed with an infection from Shiga toxin-producing Escherichia coli, and is asymptomatic:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population;<sup>P</sup> or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.<sup>P</sup>

7. If a food employee is diagnosed with an infection from Salmonella(nontyphoidal) and is asymptomatic, restrict the food employee who works in a food establishment:

a. Serving a highly susceptible population,<sup>P</sup> or

b. Not serving a highly susceptible population.<sup>P</sup>

8. If a food employee is ill with symptoms of acute onset of sore throat with fever:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population;<sup>P</sup> or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.<sup>P</sup>

9. If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under 12VAC5-421-80 A 1 e, restrict the food employee.<sup>P</sup>

10. If a food employee is exposed to a foodborne pathogen as specified under 12VAC5-421-80 A 4 or 5, restrict the food employee who works in a food establishment serving a highly susceptible population.<sup>P</sup>

#### Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-100. Removal, adjustment, or retention of exclusions and restrictions.

The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

1. Except when a food employee is diagnosed with Typhoid fever or an infection from Hepatitis A virus:

a. Reinstate a food employee who was excluded as specified under subdivision 1 a of 12VAC5-421-90 if the food employee:

(1) Is asymptomatic for at least 24 hours;<sup>P</sup> or

(2) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.<sup>P</sup>

b. If a food employee was diagnosed with an infection from Norovirus and excluded as specified under subdivision 1 b of 12VAC5-421-90:

(1) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population until the conditions for reinstatement as specified in subdivision 4 a or b of this section are met;<sup>P</sup> or

(2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 4 a or b of this section

are met.<sup>P</sup>

c. If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under subdivision 1 b of 12VAC5-421-90:

(1) Restrict the food employee, who is asymptomatic, for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subdivision 5 a or b of this section are met;<sup>P</sup> or

(2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 5 a or b, or 5 a and 1 c (1) of this section are met.<sup>P</sup>

d. If a food employee was diagnosed with an infection from Shiga toxin-producing *Escherichia coli* and excluded as specified under subdivision 1 b of 12VAC5-421-90:

(1) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subdivision 6 a or b of this section are met;<sup>P</sup> or

(2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 6 a or b are met.<sup>P</sup>

e. If a food employee was diagnosed with an infection from *Salmonella* (nontyphoidal) and excluded as specified under subdivision 1 b of 12VAC5-421-90:

(1) Restrict the food employee who is asymptomatic for at least 30 days until conditions for reinstatement as specified under subdivision 7 a or 7 b of this section are met;<sup>P</sup> or

(2) Retain the exclusion for the food employee who is symptomatic, until conditions for reinstatement as specified under subdivision 7 a or 7 b of this section are met.<sup>P</sup>

2. Reinstate a food employee who was excluded as specified under subdivision 2 of 12VAC5-421-90 if the person in charge obtains approval from the department and one of the following conditions is met:

a. The food employee has been jaundiced for more than seven calendar days;<sup>P</sup>

b. The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days;<sup>P</sup> or

c. The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Hepatitis A virus infection.<sup>P</sup>

3. Reinstate a food employee who was excluded as specified under subdivision 3 of 12VAC5-421-90 if:

a. The person in charge obtains approval from the department;<sup>P</sup> and

b. The food employee provides to the person in charge written medical documentation from a health practitioner that states the employee is free from Typhoid fever.<sup>P</sup>

4. Reinstate a food employee who was excluded as specified under subdivision 1 b or 4 a of 12VAC5-421-90, who was restricted under subdivision 4 b of 12VAC5-421-90 if the person in charge obtains approval from the department and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;<sup>P</sup>

b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic;<sup>P</sup> or

c. The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.<sup>P</sup>

5. Reinstate a food employee who was excluded as specified under subdivision 1 b or 5 a of 12VAC5-421-90 or who was restricted under subdivision 5 b of 12VAC5-421-90 if the person in charge obtains approval from the department and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Shigella spp. infection based on test results showing two consecutive negative stool specimen cultures that are taken:

(1) Not earlier than 48 hours after discontinuance of antibiotics,<sup>P</sup> and

(2) At least 24 hours apart;<sup>P</sup>

b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven calendar days have passed since the food employee became asymptomatic;<sup>P</sup> or

c. The food employee was excluded or restricted and did not develop symptoms and more than seven calendar days have passed since the food employee was diagnosed.<sup>P</sup>

6. Reinstate a food employee who was excluded or restricted as specified under subdivision 1 b or 6 a of 12VAC5-421-90 or who was restricted under subdivision 6 b of 12VAC5-421-90 if the person in charge obtains approval from the department and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Shiga toxin-producing Escherichia coli based on test results that show two consecutive negative stool specimen cultures that are taken:

(1) Not earlier than 48 hours after the discontinuance of antibiotics;<sup>P</sup> and

(2) At least 24 hours apart;<sup>P</sup>

b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven calendar days have passed since the employee became asymptomatic;<sup>P</sup> or

c. The food employee was excluded or restricted and did not develop symptoms and more than seven days have passed since the employee was diagnosed.<sup>P</sup>

7. Reinstate a food employee who was excluded as specified under subsection 1 b of 12VAC5-421-90 or who was restricted as specified under subsection 7 of 12VAC5-421-90 if the person in charge obtains approval from the department<sup>P</sup> and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Salmonella (nontyphoidal) infection based on test results showing two consecutive negative stool specimen cultures that are taken:

(1) Not earlier than 48 hours after discontinuance of antibiotics;<sup>P</sup> and

(2) At least 24 hours apart;<sup>P</sup>

b. The food employee was restricted after symptoms of vomiting or diarrhea resolved, and more than 30 days have passed since the food employee became asymptomatic;<sup>P</sup> or

c. The food employee was excluded or restricted and did not develop symptoms and more than 30 days have passed since the food employee was diagnosed.<sup>P</sup>

8. Reinstate a food employee who was excluded or restricted as specified under subdivision 8 a or b of 12VAC5-421-90 if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

a. Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 hours;<sup>P</sup>

b. Has at least one negative throat specimen culture for Streptococcus pyogenes infection;<sup>P</sup> or

c. Is otherwise determined by a health practitioner to be free of Streptococcus pyogenes infection.<sup>P</sup>

9. Reinstate a food employee who was restricted as specified under subdivision 9 of 12VAC5-421-90 if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

a. An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;<sup>P</sup>

b. An impermeable cover on the arm if the infected wound or pustular boil is on the arm;<sup>P</sup> or

c. A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.<sup>P</sup>

10. Reinstate a food employee who was restricted as specified under subdivision 10 of 12VAC5-421-90 and was exposed to one of the following pathogens as specified under 12VAC5-421-80 A 4 or 5:

a. Norovirus and one of the following conditions is met:

(1) More than 48 hours have passed since the last day the food employee was potentially exposed;<sup>P</sup> or

(2) More than 48 hours have passed since the food employee's household contact became asymptomatic.<sup>P</sup>

b. Shigella spp. or Shiga toxin-producing Escherichia coli and one of the following conditions is met:

(1) More than three calendar days have passed since the last day the food employee was potentially exposed;<sup>P</sup> or

(2) More than three calendar days have passed since the food employee's household contact became asymptomatic.<sup>P</sup>

c. Typhoid fever (caused by Salmonella typhi) and one of the following conditions is met:

(1) More than 14 calendar days have passed since the last day the food employee was potentially exposed;<sup>P</sup> or

(2) More than 14 calendar days have passed since the food employee's household contact became asymptomatic.<sup>P</sup>

d. Hepatitis A virus and one of the following conditions is met:

(1) The food employee is immune to Hepatitis A virus infection because of prior illness from Hepatitis A;<sup>P</sup>

(2) The food employee is immune to Hepatitis A virus infection because of vaccination against Hepatitis A;<sup>P</sup>

(3) The food employee is immune to Hepatitis A virus infection because of IgG administration;<sup>P</sup>

(4) More than 30 calendar days have passed since the last time the food employee was potentially exposed;<sup>P</sup>

(5) More than 30 calendar days have passed since the food employee's household contact became jaundiced;<sup>P</sup> or

(6) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least 30 days after the potential exposure, as specified in subdivisions 10 d (4) and (5) of this section, and the food employee receives additional training about:

- (a) Hepatitis A symptoms and preventing the transmission of infection;<sup>P</sup>
- (b) Proper handwashing procedures;<sup>P</sup> and
- (c) Protecting ready-to-eat food from contamination introduced by bare hand contact.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-110. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

12VAC5-421-120. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### Article 3. Personal Cleanliness

12VAC5-421-130. Clean condition of hands and arms.

Food employees shall keep their hands and exposed portions of their arms clean.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia



Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-140. Cleaning procedure of hands and arms.

A. Except as specified in subsection D of this section, food employees shall clean their hands and exposed portions of their arms or surrogate prosthetic devices for hands or arms for at least 20 seconds, using a cleaning compound in a lavatory that is equipped as specified under 12VAC5-421-2190.<sup>P</sup>

B. Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

1. Rinse under clean, running warm water;<sup>P</sup>
2. Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;<sup>P</sup>
3. Rub together vigorously for at least 10 to 15 seconds while:
  - a. Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure;<sup>P</sup> and
  - b. Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;<sup>P</sup>
4. Thoroughly rinsing under clean, running warm water;<sup>P</sup> and
5. Immediately follow the cleaning procedure with thorough drying using a method as specified under 12VAC5-421-3030.<sup>P</sup>

C. To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

D. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-150. (Repealed.)

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

Statutory Authority

Historical Notes

## 12VAC5-421-160. When to wash.

Food employees shall clean their hands and exposed portions of their arms as specified under 12VAC5-421-140 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles<sup>P</sup> and:

1. After touching bare human body parts or hair other than clean hands and clean, exposed portions of arms;<sup>P</sup>
2. After using the toilet room;<sup>P</sup>
3. After caring for or handling service animals or aquatic animals as allowed under 12VAC5-421-250 B;<sup>P</sup>
4. Except as specified in 12VAC5-421-220 B, after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;<sup>P</sup>
5. After handling soiled equipment or utensils;<sup>P</sup>
6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;<sup>P</sup>
7. When switching between working with raw foods and working with ready-to-eat foods;<sup>P</sup>
8. Before donning gloves to initiate a task that involves working with foods;<sup>P</sup> and
9. After engaging in other activities that contaminate the hands.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-170. Where to wash.

Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and shall not clean their hands (i) in a sink used for food preparation or utensil washing or (ii) in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-180. Hand antiseptics.

A. A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

1. Comply with one of the following:

- a. Be an approved drug that is listed in the FDA publication "Approved Drug Products with Therapeutic Equivalence Evaluations," 39th Edition, 2019 (U.S. Food and Drug Administration) as an approved drug based on safety and effectiveness;<sup>Pf</sup> or
- b. Have active antimicrobial ingredients that are listed in the FDA monograph for OTC (over the counter) Health-Care Antiseptic Drug Products as an antiseptic handwash;<sup>Pf</sup>

2. Consist only of components which the intended use of each complies with one of the following:

- a. A threshold of regulation exemption under 21 CFR 170.39;<sup>Pf</sup>
- b. 21 CFR Part 178, as regulated for use as a food additive with conditions of safe use;<sup>Pf</sup>
- c. A determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in 21 CFR Part 182, 21 CFR 184, or 21 CFR Part 186 for use in contact with food and in FDA's Inventory of GRAS Notices;<sup>Pf</sup>
- d. A prior sanction listed under 21 CFR 181;<sup>Pf</sup> or
- e. A food contact notification that is effective;<sup>Pf</sup> and

3. Be applied only to hands that are cleaned as specified under 12VAC5-421-140.<sup>Pf</sup>

B. If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified in subdivision A 2 of this section, use shall be:

1. Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves;<sup>Pf</sup> or
2. Limited to situations that involve no direct contact with food by the bare hands.<sup>Pf</sup>

C. A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 ppm (mg/l) chlorine.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-190. Maintenance of fingernails.

A. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.<sup>Pf</sup>

B. Unless wearing intact gloves in good repair, a food employee shall not wear fingernail polish or artificial nails when working with exposed food.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-200. Prohibition of jewelry.

Except for a plain ring such as a wedding band, while preparing food, food employees shall not wear jewelry, including medical information jewelry on their arms and hands.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-210. Clean condition of outer clothing.

Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## Article 4. Hygienic Practices

## 12VAC5-421-220. Eating, drinking, or using tobacco.

A. Except as specified in subsection B of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

B. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

1. The employee's hands;
2. The container; and
3. Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-230. Discharges from the eyes, nose, and mouth.

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth shall not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

## 12VAC5-421-235. Use of bandages, finger cots, or finger stalls.

If used, an impermeable cover such as a bandage, finger cot, or finger stall located on the wrist, hand, or finger of the food employee working with exposed food shall be covered with a single-use glove.

Statutory Authority

§§ [35.1-11](#) and [35.1-14](#) of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-240. Effectiveness of hair restraints.

A. Except as provided under subsection B of this section, food employees shall wear hair restraints, such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

B. This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-250. Handling of animals prohibited.

A. Except as specified in subsection B of this section, food employees shall not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed under 12VAC5-421-3310 B 2, 3, and 4.<sup>Pf</sup>

B. Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under 12VAC5-421-140 and subdivision 3 of 12VAC5-421-160.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-255. Clean-up of vomiting and diarrheal events.

A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## Part III. Food

### Article 1. Characteristics

12VAC5-421-260. Safe, unadulterated, and honestly presented.

Food shall be safe, unadulterated, and, as specified in 12VAC5-421-890, honestly presented.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### Article 2. Sources, Specifications, and Original Containers and Records

12VAC5-421-270. Compliance with food law.

A. Food shall be obtained from sources that comply with law.<sup>P</sup>

B. Food prepared in a private home shall not be used or offered for human consumption in a food establishment unless the home kitchen is inspected and regulated by the Virginia Department of Agriculture and Consumer Services.<sup>P</sup>

C. Packaged food shall be labeled as specified in law, including 21 CFR Part 101, 9 CFR Part 317, and Subpart N of 9 CFR Part 381, and as specified under 12VAC5-421-400 and 12VAC5-421-410.<sup>Pf</sup>

D. Fish, other than those specified in 12VAC5-421-730 B, that are intended for consumption in raw or undercooked form and allowed as specified in 12VAC5-421-700 D, may be offered for sale or service if they are obtained from a supplier that freezes fish as specified under 12VAC5-421-730 A; or if they are frozen on premises as specified under 12VAC5-421-730 A and records are retained as specified under 12VAC5-421-740.

E. Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 12VAC5-421-700 C shall be:

1. Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that they meet the definition of whole-muscle, intact beef;<sup>Pf</sup> or
2. Deemed acceptable by the department based on other evidence, such as written buyer

specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef;<sup>Pf</sup> and

3. If individually cut in a food establishment:

a. Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in subdivision 1 of this subsection or identified as specified in subdivision 2 of this subsection;<sup>P</sup>

b. Prepared so they remain intact;<sup>Pf</sup> and

c. If packaged for undercooking in a food establishment, labeled as specified in subdivision 1 of this subsection or identified as specified in subdivision 2 of this subsection.<sup>Pf</sup>

F. Meat and poultry that is not a ready-to-eat food and is in a packaged form when offered for sale or otherwise offered for consumption shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

G. Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016V; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-280. Food in a hermetically sealed container.**

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-290. Fluid milk and milk products.**

Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law.<sup>P</sup>

Statutory Authority



§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-295. Juice treated.

Prepackaged juice shall:

1. Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120,<sup>Pf</sup> and
2. Be obtained pasteurized or otherwise treated to attain a five-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR 120.24.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-300. Fish.

A. Fish that are received for sale or service shall be:

1. Commercially and legally caught or harvested;<sup>P</sup> or
2. Approved for sale or service.<sup>P</sup>

B. Molluscan shellfish that are recreationally caught shall not be received for sale or service.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-310. Molluscan shellfish.

A. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2017 Revision, (U.S. Food and Drug Administration).<sup>P</sup>

B. Molluscan shellfish shall be from sources that are listed in the "Interstate Certified Shellfish Shippers List" (U.S. Food and Drug Administration).<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-320. Wild mushrooms.

A. Except as specified in subsection B of this section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment unless the food establishment has been approved to do so.<sup>P</sup>

B. This section does not apply to:

1. Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
2. Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-330. Game animals.

A. If game animals are received for sale or service they shall be:

1. Commercially raised for food and raised, slaughtered, and processed under a voluntary inspection program that is conducted by the state agency that has animal health jurisdiction or under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR Part 352;
2. As allowed by law, wild game animals that are live-caught:
  - a. Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction;<sup>P</sup>
  - b. Slaughtered and processed according to:
    - (1) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program;<sup>P</sup> and

(2) Requirements that are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;<sup>P</sup> or

3. As allowed by law for field-dressed wild game animals under a routine inspection program that ensures the animals:

a. Receive a postmortem examination by an approved veterinarian or veterinarian's designee; or

b. Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program;<sup>P</sup> and

c. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.<sup>P</sup>

B. A game animal shall not be received for sale or service if it is a species of wildlife that is listed in 50 CFR Part 17.

C. The requirements of subsection A of this section shall not apply to commercially slaughtered or processed rabbits that are offered for sale or service.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 36, Issue 1, eff. October 17, 2019.

## 12VAC5-421-340. Temperature.

A. Except as specified in subsection B of this section, refrigerated, time/temperature control for safety food shall be at a temperature of 41°F (5°C) or below when received.<sup>P</sup>

B. If a temperature other than 41°F (5°C) for a time/temperature control for safety food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

C. Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.<sup>P</sup>

D. Time/temperature control for safety food that is cooked to a temperature and for a time specified under 12VAC5-421-700, 12VAC5-421-710, and 12VAC5-421-720 and received hot shall be at a temperature of 135° (57°C) or above.<sup>P</sup>

E. A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.<sup>Pf</sup>

F. Upon receipt, time/temperature control for safety food shall be free of evidence of previous temperature abuse.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-350. Additives.

Food shall not contain unapproved food additives or additives that exceed amounts specified in 21 CFR Parts 170-180 relating to food additives; generally recognized as safe (GRAS) or prior sanctioned substances that exceed amounts allowed in 21 CFR Parts 181-186; substances that exceed amounts specified in 9 CFR 424.21(b), Subpart C; or pesticide residues that exceed provisions specified in 40 CFR Part 180 and exceptions.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-360. Eggs.

Eggs shall be received clean and sound and shall not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA. Eggs sold pursuant to § 3.2-5305 of the Code of Virginia are exempt from the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56, effective July 20, 2000, (Agricultural Marketing Service of USDA).<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010;

Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-370. Eggs and milk products, pasteurized.

A. Egg products shall be obtained pasteurized.<sup>P</sup>

B. Fluid and dry milk and milk products shall:

1. Be obtained pasteurized;<sup>P</sup> and
2. Comply with Grade A standards as specified in law.

C. Frozen milk products, such as ice cream, shall be obtained pasteurized in accordance with 21 CFR Part 135.<sup>P</sup>

D. Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR Part 133.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-380. Package integrity.

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-390. Ice.

Ice for use as a food or a cooling medium shall be made from pure water.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-400. Shucked shellfish, packaging, and identification.

A. Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies:<sup>Pf</sup>

1. The name, address, and certification number of the shucker-packer, or repacker of the molluscan shellfish;<sup>Pf</sup> and
2. The "sell by" or "best if used by" date for packages with a capacity of less than 64 fluid ounces (1.89L) or the date shucked for packages with a capacity of 64 fluid ounces (1.89L) or more.<sup>Pf</sup>

B. A package of raw shucked shellfish that does not bear a label or that bears a label which does not contain all the information as specified under subsection A of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d), Subpart D.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-410. Shellstock identification.

A. Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by a dealer that deperates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, 2017 Revision (U.S. Food and Drug Administration), and that include the following information:<sup>Pf</sup>

1. The dealer's name and address, and the certification number assigned by the shellfish control authority;<sup>Pf</sup>
2. The original shipper's certification number assigned by the shellfish control authority.;<sup>Pf</sup>
3. The harvest date, or if deperated, the date of deperation processing, or if wet stored, the original harvest date and the final harvest date;<sup>Pf</sup>
4. If wet stored or deperated, the wet storage or deperation cycle or lot number. The wet storage lot number shall begin with the letter "w.";<sup>Pf</sup>
5. The harvest area, including the initials of the state or, as applicable, country of harvest;  
<sup>Pf</sup>
6. The type and quantity of shellstock;<sup>Pf</sup>
7. The following statement in bold, capitalized type: "THIS TAG (OR LABEL) IS REQUIRED

TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS." "RETAILERS: DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD OR SERVED (INSERT DATE)"<sup>Pf</sup>; and

8. All shellstock intended for raw consumption shall include a consumer advisory using the statement from 12VAC5-421-930 C, or an equivalent statement.

B. A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under subsection A of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d), Subpart D.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-420. Shellstock; condition.

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-430. Molluscan shellfish; original container.

A. Except as specified in subsections B, C, and D of this section, molluscan shellfish shall not be removed from the container in which they were received other than immediately before sale or preparation for service.

B. For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

1. The source of the shellstock on display is identified as specified under 12VAC5-421-410 and recorded as specified under 12VAC5-421-440; and
2. The shellstock are protected from contamination.

C. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

1. The labeling information for the shellfish on display as specified under 12VAC5-421-400 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
2. The shellfish are protected from contamination.

D. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

1. The labeling information for the shellfish is on each consumer self-service container as specified under 12VAC5-421-400 and 12VAC5-421-900 A and B 1 through 5;
2. The labeling information as specified under 12VAC5-421-400 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;
3. The labeling information and dates specified under subdivision D 2 of this section are maintained for 90 days; and
4. The shellfish are protected from contamination.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-440. Shellstock; maintaining identification.

- A. Except as specified under subdivision C 2 of this section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.<sup>Pf</sup>
- B. The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.<sup>Pf</sup>
- C. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label as specified in subsection B of this section, by:<sup>Pf</sup>
1. Using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under subsection B of this section;<sup>Pf</sup> and
  2. If shellstock are removed from its tagged or labeled container:



- a. Preserving source identification by using a recordkeeping system as specified under subdivision C 1 of this section,<sup>Pf</sup> and
- b. Ensuring that shellstock or shucked shellfish from one tagged or labeled container are not commingled with shellstock or shucked shellfish from another container with different certification numbers, different harvest dates, or different growing areas as identified on the tag or label before being ordered by the consumer.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### Article 3. Protection from Contamination after Receiving

#### 12VAC5-421-450. Preventing contamination from hands.

- A. Food employees shall wash their hands as specified under 12VAC5-421-140.
- B. Except when washing fruits and vegetables as specified under 12VAC5-421-510 or as specified in subsections D and E of this section, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.<sup>P</sup>
- C. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.<sup>Pf</sup>
- D. Subsection B of this section does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to food that:
  1. Contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures specified in subsection A or B of 12VAC5-421-700 or in 12VAC5-421-710; or
  2. Does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 145°F (63°C).
- E. Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:
  1. The permit holder obtains prior approval from the department;
  2. Written procedures are maintained in the food establishment and made available to the department upon request that include:
    - a. For each bare hand contact procedure, a listing of the specific ready-to-eat foods that

are touched by bare hands;

b. Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under 12VAC5-421-2230, 12VAC5-421-2280, 12VAC5-421-2310, 12VAC5-421-3020, 12VAC5-421-3030, and 12VAC5-421-3045 are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;

3. A written employee health policy that details how the food establishment complies with 12VAC5-421-80, 12VAC5-421-90, and 12VAC5-421-100 including:

a. Documentation that the food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under 12VAC5-421-80 A;

b. Documentation that food employees and conditional employees acknowledge their responsibilities as specified under 12VAC5-421-80 E and F; and

c. Documentation that the person in charge acknowledges the responsibilities as specified under 12VAC5-421-80 B, C, and D, and 12VAC5-421-90 and 12VAC5-421-100;

4. Documentation that the food employees acknowledge that they have received training in:

a. The risks of contacting the specific ready-to-eat foods with their bare hands;

b. Proper handwashing as specified under 12VAC5-421-140;

c. When to wash their hands as specified under 12VAC5-421-160;

d. Where to wash their hands as specified under 12VAC5-421-170;

e. Proper fingernail maintenance as specified under 12VAC5-421-190;

f. Prohibition of jewelry as specified under 12VAC5-421-200; and

g. Good hygienic practices as specified under 12VAC5-421-220 and 12VAC5-421-230;

5. Documentation that hands are washed before food preparation and as necessary to prevent cross-contamination by food employees as specified under 12VAC5-421-130 through 12VAC5-421-170 during all hours of operation when the specific ready-to-eat foods are prepared;

6. Documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

a. Double handwashing;

b. Nail brushes;

c. A hand antiseptic after handwashing as specified under 12VAC5-421-180;

d. Incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill; or

e. Other control measures approved by the department; and

7. Documentation that corrective action is taken when subdivisions 1 through 6 of this subsection are not followed.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-460. Preventing contamination when tasting.

A food employee shall not use a utensil more than once to taste food that is to be sold or served.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-470. Packaged and unpackaged food - separation, packaging, and segregation.

A. Food shall be protected from cross contamination by:

1. Except as specified in subdivision 1 d of this subsection, separating raw animal foods during storage, preparation, holding, and display from:

a. Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables;<sup>P</sup>

b. Cooked ready-to-eat food;<sup>P</sup>

c. Fruits and vegetables before they are washed;<sup>P</sup> and

d. Frozen, commercially processed, and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food;

2. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and

display by:

- a. Using separate equipment for each type;<sup>P</sup> or
- b. Arranging each type of food in equipment so that cross contamination of one type with another is prevented;<sup>P</sup> and
- c. Preparing each type of food at different times or in separate areas.<sup>P</sup>

3. Cleaning equipment and utensils as specified under 12VAC5-421-1780 A and sanitizing as specified under 12VAC5-421-1900;

4. Except as specified in subsection B of this section and 12VAC5-421-810 B 2, storing the food in packages, covered containers, or wrappings;

5. Cleaning hermetically sealed containers of food of visible soil before opening;

6. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

7. Storing damaged, spoiled, or recalled food being held in the food establishment as specified under 12VAC5-421-3150; and

8. Separating fruits and vegetables, before they are washed as specified under 12VAC5-421-510 from ready-to-eat food.

B. Subdivision A 4 of this section does not apply to:

1. Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption;

2. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

3. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;

4. Food being cooled as specified under 12VAC5-421-810 B 2; or

5. Shellstock.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-480. Food storage containers; identified with common name of food.**

Except for containers holding food that can be readily and unmistakably recognized such as

dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-490. Pasteurized eggs; substitute for raw eggs for certain recipes and populations.**

Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:<sup>P</sup>

1. Cooked as specified in 12VAC5-421-700 A 1 or 2;<sup>P</sup> or
2. Included in 12VAC5-421-700 D.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-500. Protection from unapproved additives.**

A. Food, as specified in 12VAC5-421-350, shall be protected from contamination that may result from the addition of:

1. Unsafe or unapproved food or color additives;<sup>P</sup> and
2. Unsafe or unapproved levels of approved food and color additives.<sup>P</sup>

B. A food employee shall not:

1. Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B<sub>1</sub>;<sup>P</sup> or
2. Except for grapes, serve or sell food specified under subdivision B 1 of this section that is treated with sulfiting agents before receipt by the food establishment.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-510. Washing fruits and vegetables.**

A. Except as specified in subsection B of this section and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

B. Fruits and vegetables may be washed by using chemicals as specified under 12VAC5-421-3390.

C. Devices used for onsite generation of chemicals meeting the requirements specified in 21 CFR 173.315 shall be used in accordance with the manufacturer's instructions.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-520. Ice used as exterior coolant, prohibited as ingredient.**

After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice shall not be used as food.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-530. Storage or display of food in contact with water or ice.**

A. Packaged food shall not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

B. Except as specified in subsections C and D of this section, unpackaged food shall not be stored in direct contact with undrained ice.

C. Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

D. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-540. Food contact with equipment and utensils.

Food shall only contact surfaces of:

1. Equipment and utensils that are cleaned as specified under 12VAC5-421-1770 through 12VAC5-421-1860 and sanitized as specified under 12VAC5-421-1885, 12VAC5-421-1890 and 12VAC5-421-1900;<sup>P</sup>
2. Single-service and single-use articles;<sup>P</sup> or
3. Linens, such as cloth napkins, as specified under 12VAC5-421-560 that are laundered as specified under 12VAC5-421-1920 C.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-550. In-use utensils, between-use storage.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

1. Except as specified under subdivision 2 of this section, in the food with their handles above the top of the food and the container;
2. In food that is not time/temperature control for safety food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;
3. On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under 12VAC5-421-1780 and 12VAC5-

421-1890;

4. In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

5. In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not time/temperature control for safety food; or

6. In a container of water if the water is maintained at a temperature of at least 135°F (57°C) and the container is cleaned at a frequency specified under 12VAC5-421-1780 D 7.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-560. Linens and napkins, use limitation.

Linens, such as cloth napkins, shall not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new customer.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-570. Wiping cloths; use limitation.

A. Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:

1. Maintained dry; and
2. Used for no other purpose.

B. Cloths in-use for wiping counters and other equipment surfaces shall be:

1. Held between uses in a chemical sanitizer solution at a concentration specified in 12VAC5-421-3380; and
2. Laundered daily as specified under 12VAC5-421-1920 D.

C. Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from other cloths used for other purposes.



D. Dry wiping cloths and the chemical sanitizing solutions specified in subdivision B 1 of this section in which wet wiping cloths are held between uses shall be free of food debris and visible soil.

E. Containers of chemical sanitizing solutions specified in subdivision B 1 of this section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.

F. Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-580. Gloves; use limitation.

A. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.<sup>P</sup>

B. Except as specified in subsection C of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under 12VAC5-421-700 through 12VAC5-421-760 such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

D. Cloth gloves shall not be used in direct contact with food unless the food is subsequently cooked as required under 12VAC5-421-700 through 12VAC5-421-760 such as frozen food or a primal cut of meat.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-590. Using clean tableware for second portions and refills.

A. Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip contact area of the drinking cup or container, food employees shall not use tableware, including single-service articles, soiled by the consumer to provide second portions or refills.

B. Except as specified in subsection C of this section, self-service consumers shall not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

C. Cups and glasses may be reused by self-service consumers or food employees if refilling is a contamination-free process as specified under subdivisions 1, 2 and 4 of 12VAC5-421-1230.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

## 12VAC5-421-600. Refilling returnables.

A. Except as specified in subsections B through E of this section, empty containers returned to a food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.<sup>P</sup>

B. A take-home food container returned to a food establishment may be refilled at a food establishment with food if the food container is:

1. Designed and constructed for reuse and in accordance with the requirements specified in 12VAC5-421-960 through 12VAC5-421-1435;<sup>P</sup>
2. One that was initially provided by the food establishment to the consumer, either empty or filled with food by the establishment, for the purpose of being returned for reuse;
3. Returned to the food establishment by the consumer after use;
4. Subject to the following steps before being refilled with food:
  - a. Cleaned as specified in 12VAC5-421-1770 through 12VAC5-421-1860;
  - b. Sanitized as specified in 12VAC5-421-1885, 12VAC5-421-1890, and 12VAC5-421-1900;<sup>P</sup> and
  - c. Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified in 12VAC5-421-960 through 12VAC5-421-1435.<sup>P</sup>

C. A take-home food container returned to a food establishment may be refilled at a food establishment with beverage if:

1. The beverage is not a time/temperature control for safety food;
2. The design of the container, the rinsing equipment, and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;
3. Facilities before rinsing or refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
4. The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
5. The container is refilled by:
  - a. An employee of the food establishment; or
  - b. The owner of the container if the beverage system includes a contamination-free transfer process as specified in subdivisions 1, 2, and 4 of 12VAC5-421-1230.

D. Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under subdivisions 1, 2, and 4 of 12VAC5-421-1230.

E. Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-610. Food storage.

A. Except as specified in subsections B and C of this section, food shall be protected from contamination by storing the food:

1. In a clean, dry location;
2. Where it is not exposed to splash, dust, or other contamination; and
3. At least 6 inches (15 cm) above the floor.

B. Food in packages and working containers may be stored less than 6 inches (15 cm) above the floor on case lot handling equipment as specified under 12VAC5-421-1420.

C. Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-620. Food storage; prohibited areas.**

Food shall not be stored:

1. In locker rooms;
2. In toilet rooms or their vestibules;
3. In dressing rooms;
4. In garbage rooms;
5. In mechanical rooms;
6. Under sewer lines that are not shielded to intercept potential drips;
7. Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
8. Under open stairwells; or
9. Under other sources of contamination.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-630. Vended time/temperature control for safety food; original container.**

Time/temperature control for safety food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-640. Food preparation.

During preparation, unpackaged food shall be protected from environmental sources of contamination.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-650. Food display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-660. Condiments; protection.

A. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

B. Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at a location that is approved by the department, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-670. Consumer self-service operations.

A. Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish shall not be

offered for consumer self-service.<sup>P</sup> This subsection does not apply to:

1. Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;
2. Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or
3. Raw, frozen, shell-on shrimp or lobster.

B. Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.<sup>Pf</sup>

C. Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-680. Returned food and reservice of food.

A. Except as specified under subsection B of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer shall not be offered as food for human consumption.<sup>P</sup>

B. Except as specified in subdivision 8 of 12VAC5-421-950, a container of food that is not time/temperature control for safety food may be re-served from one consumer to another if:

1. The food is dispensed so that it is protected from contamination and the container is closed between uses such as a narrow-neck bottle containing catsup, steak sauce, or wine; or
2. The food, such as crackers, salt, or pepper, is in an unopened original package and maintained in sound condition.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-690. Miscellaneous sources of contamination.

Food shall be protected from contamination that may result from a factor or source not specified under 12VAC5-421-450 through 12VAC5-421-680.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## Article 4. Destruction of Organisms of Public Health Concern

### 12VAC5-421-700. Raw animal foods.

A. Except as specified in subsections B, C, and D of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

1. 145°F (63°C) or above for 15 seconds for:<sup>P</sup>

a. Raw eggs that are broken and prepared in response to a consumer's order and for immediate service;<sup>P</sup> and

b. Except as specified under subdivisions A 2 and 3 and subsections B and C of this section, fish and intact meat, including game animals commercially raised for food and game animals under a voluntary inspection program as specified under 12VAC5-421-330 A 1;<sup>P</sup>

2. 155°F (68°C) for 17 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized meats, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food and game animals under a voluntary inspection program as specified under 12VAC5-421-330 A 1; and raw eggs that are not prepared as specified under subdivision 1 a of this subsection:<sup>P</sup>

	Minimum
Temperature °F (°C)	Time
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	<1 second (instantaneous)

; or

3. 165°F (74°C) or above for less than one second (instantaneous) for poultry, baluts, wild game animals as specified under 12VAC5-421-330 A 2, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.<sup>P</sup>

B. Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as

ham shall be cooked:

1. As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:<sup>P</sup>

Temperature °F (°C)	Time <sup>1</sup> in Minutes	Temperature °F (°C)	Time <sup>1</sup> in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		
144 (62.2)	5		
145 (62.8)	4		

<sup>1</sup>Holding time may include postoven heat rise.

; and

2. If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature.<sup>Pf</sup>

f

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or more
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity <sup>1</sup>	250°F (121°C) or less	250°F (121°C) or less

<sup>1</sup>Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.





C. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

1. The food establishment serves a population that is not a highly susceptible population;
2. The steak is labeled, as specified under 12VAC5-421-270 E, to indicate that it meets the definition of "whole-muscle, intact beef"; and
3. The steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above and a cooked color change is achieved on all external surfaces.

D. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subsection C of this section, may be served or offered for sale upon request or consumer selection in a ready-to-eat form if:

1. As specified under subdivisions 3 a and b of 12VAC5-421-950 the food establishment serves a population that is not a highly susceptible population;
2. The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat;<sup>Pf</sup> and
3. The consumer is informed as specified under 12VAC5-421-930 that to ensure its safety, the food should be cooked as specified under subsection A or B of this section; or
4. The department grants a variance from subsection A or B of this section as specified in 12VAC5-421-3570 based on a HACCP plan that:
  - a. Is submitted by the permit holder and approved as specified under 12VAC5-421-3570;
  - b. Documents scientific data or other information that shows that a lesser time and temperature regimen results in a safe food; and
  - c. Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-710. Microwave cooking.

Raw animal foods cooked in a microwave oven shall be:

1. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
2. Covered to retain surface moisture;
3. Heated to a temperature of at least 165°F (74°C) in all parts of the food;<sup>P</sup> and
4. Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-720. Plant food cooking for hot holding.

Plant foods that are cooked for hot holding shall be cooked to a temperature of 135°F (57°C).  
Pf

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-725. Noncontinuous cooking.

Raw animal foods that are cooked using a noncontinuous cooking process shall be:

1. Subject to an initial heating process that is no longer than 60 minutes in duration;<sup>P</sup>
2. Immediately after initial heating, cooled according to the time and temperature requirements specified for cooked time/temperature control for safety food under 12VAC5-421-800 A;<sup>P</sup>
3. After cooling, held frozen or cold, as specified for time/temperature control for safety food under 12VAC5-421-820 A 2;<sup>P</sup>
4. Prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time as designated in 12VAC5-421-700 A, B, and C;<sup>P</sup>
5. Cooled according to the time and temperature parameters specified for cooked time/temperature control for safety food under 12VAC5-421-800 A if not either hot held as specified under 12VAC5-421-820 A 1, served immediately, or held using time as a public

health control as specified under 12VAC5-421-850 after complete cooling;<sup>P</sup> and

6. Prepared and stored according to written procedures that:

- a. Have obtained prior approval from the department;<sup>Pf</sup>
- b. Are maintained in the food establishment and are made available to the department upon request;<sup>Pf</sup>
- c. Describe how the requirements specified under subdivisions 1 through 5 of this section are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met;<sup>Pf</sup>
- d. Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under subdivision 4 of this section prior to being offered for sale or service;<sup>Pf</sup> and
- e. Describe how the foods, after initial heating but prior to cooking as specified in subdivision 4 of this section, are to be separated from ready-to-eat foods as specified under 12VAC5-421-470 A.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-730. Parasite destruction.

A. Except as specified in subsection B of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked or marinated-partially cooked fish shall be:

1. Frozen and stored at a temperature of -4°F (-20°C) or below for a minimum of 168 hours (seven days) in a freezer;<sup>P</sup>
2. Frozen at -31°F (-35°C) or below until solid and stored at -31°F (-35°C) or below for a minimum of 15 hours;<sup>P</sup> or
3. Frozen at -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of 24 hours.<sup>P</sup>

B. Subsection A of this section does not apply to:

1. Molluscan shellfish;
2. A scallop product consisting only of the shucked adductor muscle;
3. Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern);

4. Aquacultured fish, such as salmon, that:
  - a. If raised in open water, are raised in net-pens; or
  - b. Are raised in land-based operations such as ponds or tanks; and
  - c. Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish, or
5. Fish eggs that have been removed from the skein and rinsed.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

#### 12VAC5-421-740. Records, creation and retention.

A. Except as specified in 12VAC5-421-730 B and subsection B of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.<sup>Pf</sup>

B. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 12VAC5-421-730 may substitute for the records specified under subsection A of this section.

C. If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 12VAC5-421-730 B 4, a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 12VAC5-421-730 B 4 shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-750. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-755. Preparation for immediate service.

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-760. Reheating for hot holding.

A. Except as specified under subsections B, C, and E of this section, time/temperature control for safety food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach at least 165°F (74°C) for 15 seconds.<sup>P</sup>

B. Except as specified under subsection C of this section, time/temperature control for safety food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) and the food is rotated or stirred, covered, and allowed to stand covered two minutes after reheating.<sup>P</sup>

C. Ready-to-eat time/temperature control for safety food that has been commercially processed and packaged in a food processing plant that is inspected by the department that has jurisdiction over the plant shall be heated to a temperature of at least 135°F (57°C) when being reheated for hot holding.<sup>P</sup>

D. Reheating for hot holding as specified under subsections A, B, and C of this section shall be done rapidly and the time the food is between 41°F (5°C) and the temperatures specified under subsections A, B, and C of this section may not exceed two hours.<sup>P</sup>

E. Remaining unsliced portions of meat roasts that are cooked as specified under 12VAC5-421-700 B may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 12VAC5-421-700 B.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia

Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## Article 5. Limitation of Growth of Organisms of Public Health Concern

### 12VAC5-421-765. Treating juice.

Juice packaged in a food establishment shall be:

1. Treated under a HACCP plan as specified in 12VAC5-421-3630 to attain a five-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance;<sup>P</sup> or
2. Labeled, if not treated to yield a five-log reduction of the most resistant microorganism of public health significance.<sup>Pf</sup>
  - a. As specified under 12VAC5-421-900;<sup>Pf</sup> and
  - b. As specified in 21 CFR 101.17(g) with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-770. Frozen food.

Stored frozen foods shall be maintained frozen.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-780. Time/temperature control for safety food, slacking.

Frozen time/temperature control for safety food that is slacked to moderate the temperature shall be held:

1. Under refrigeration that maintains the food temperature at 41°F (5°C) or less; or
2. At any temperature if the food remains frozen.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-790. Thawing.

A. Except as specified in subdivision 4 of this subsection, time/temperature control for safety food shall be thawed:

1. Under refrigeration that maintains the food temperature at 41°F (5°C) or less;
2. Completely submerged under running water:
  - a. At a water temperature of 70°F (21°C) or below;
  - b. With sufficient water velocity to agitate and float off loose particles in an overflow; and
  - c. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F (5°C); or
  - d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under 12VAC5-421-700 A or B to be above 41°F (5°C) for more than four hours including:
    - (1) The time the food is exposed to the running water and the time needed for preparation for cooking; or
    - (2) The time it takes under refrigeration to lower the food temperature to 41°F (5°C);
3. As part of a cooking process if the food that is frozen is:
  - a. Cooked as specified under 12VAC5-421-700 A or B or 12VAC5-421-710; or
  - b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or
4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

B. Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

1. Prior to its thawing under refrigeration as specified in subdivision A 1 of this section.
2. Prior to, or immediately upon completion of, its thawing using procedures specified in subdivision A 2 of this section.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-800. Cooling.

A. Cooked time/temperature control for safety food shall be cooled:

1. Within two hours, from 135°F (57°C) to 70°F (21°C);<sup>P</sup> and
2. Within a total of six hours from 135°F (57°C) to 41°F (5°C) or less.<sup>P</sup>

B. Time/temperature control for safety food shall be cooled within four hours to 41°F (5°C) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.<sup>P</sup>

C. Except as specified in subsection D of this section, a time/temperature control for safety food received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier as specified in 12VAC5-421-340 B, shall be cooled within four hours to 41°F (5°C) or less.<sup>P</sup>

D. Raw eggs shall be received as specified under 12VAC5-421-340 C and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-810. Cooling methods.

A. Cooling shall be accomplished in accordance with the time and temperature criteria specified under 12VAC5-421-800 by using one or more of the following methods based on the type of food being cooled:

1. Placing the food in shallow pans;<sup>Pf</sup>
2. Separating the food into smaller or thinner portions;<sup>Pf</sup>
3. Using rapid cooling equipment;<sup>Pf</sup>
4. Stirring the food in a container placed in an ice water bath;<sup>Pf</sup>
5. Using containers that facilitate heat transfer;<sup>Pf</sup>



6. Adding ice as an ingredient;<sup>Pf</sup> or

7. Other effective methods.<sup>Pf</sup>

B. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

1. Arranged in the equipment to provide maximum heat transfer through the container walls; and

2. Loosely covered, or uncovered if protected from overhead contamination as specified under 12VAC5-421-610 A 2, during the cooling period to facilitate heat transfer from the surface of the food.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-820. Time/temperature control for safety food; hot and cold holding.**

A. Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 12VAC5-421-850 and except as specified in subsections B and C of this section, time/temperature control for safety food shall be maintained:

1. At 135°F (57°C) or above, except that roasts cooked to a temperature and for a time specified under 12VAC5-421-700 B or reheated as specified in 12VAC5-421-760 E may be held at a temperature of 130°F (54°C) or above;<sup>P</sup> or

2. At 41°F (5°C) or less.<sup>P</sup>

B. Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.<sup>P</sup>

C. Time/temperature control for safety food in a homogenous liquid form may be maintained outside the temperature control requirements, as specified in subsection A of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified under subdivision 5 of 12VAC5-421-1230.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010;

**12VAC5-421-830. Ready-to-eat, time/temperature control for safety food; date marking.**

A. Except when packaging food using a reduced oxygen packaging method as specified under 12VAC5-421-870, and except as specified in subsections E and F of this section, refrigerated ready-to-eat time/temperature control for safety food prepared and held in a food establishment for more than 24 hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature of 41°F (5°C) or less for a maximum of seven days. The day of preparation shall be counted as day 1.<sup>Pf</sup>

B. Except as specified in subsections E, F, and G of this section, refrigerated ready-to-eat, time/temperature control for safety food prepared and packaged by a food processing plant shall be clearly marked at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in subsection A of this section and:<sup>Pf</sup>

1. The day the original container is opened in the food establishment shall be counted as day 1;<sup>Pf</sup> and
2. The day or date marked by the food establishment shall not exceed a manufacturer's "use by" date if the manufacturer determined the "use by" date based on food safety.<sup>Pf</sup>

C. A refrigerated, ready-to-eat, time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.<sup>Pf</sup>

D. A date marking system that meets the criteria specified in subsections A and B of this section may include:

1. Using a method approved by the department for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft-serve mix or milk in a dispensing machine;
2. Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in subsection A of this section;
3. Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under subsection B of this section; or
4. Using calendar dates, days of the week, color-coded marks, or other effective marking

methods, provided that the marking system is disclosed to the department upon request.

E. Subsections A and B of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

F. Subsections A and B of this section do not apply to shellstock.

G. Subsection B of this section does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

1. Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR Part 110;
2. Hard cheeses containing not more than 39% moisture as defined in 21 CFR Part 133, such as cheddar, gruyere, parmesan and reggiano, and romano;
3. Semi-soft cheese containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR Part 133, such as blue, edam, gorgonzola, gouda, and monterey jack;
4. Cultured dairy products as defined in 21 CFR Part 131, such as yogurt, sour cream, and buttermilk;
5. Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products as defined in 21 CFR Part 114;
6. Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami; and
7. Shelf stable salt-cured products such as prosciutto and Parma (ham).

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-840. Ready-to-eat, time/temperature control for safety food; disposition.**

A. A food specified under 12VAC5-421-830 A or B shall be discarded if it:

1. Exceeds either of the temperature and time combination specified in 12VAC5-421-830 A, except time that the product is frozen;<sup>P</sup>
2. Is in a container or package that does not bear a date or day;<sup>P</sup> or
3. Is inappropriately marked with a date or day that exceeds a temperature and time combination as specified in 12VAC5-421-830 A.<sup>P</sup>

B. Refrigerated, ready-to-eat, time/temperature control for safety food prepared in a food

establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in 12VAC5-421-830 A.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-850. Time as a public health control.

A. Except as specified under subsection D of this section, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service, written procedures shall be prepared in advance, maintained in the food establishment, and made available to the department upon request that specify:<sup>Pf</sup>

1. Methods of compliance with subsection B or C of this section;<sup>Pf</sup> and
2. Methods of compliance with 12VAC5-421-800 for food that is prepared, cooked, and refrigerated before time is used as a public health control.<sup>Pf</sup>

B. If time without temperature control is used as the public health control up to a maximum of four hours:

1. The food shall have an initial temperature of 41°F (5°C) or less when removed from cold holding temperature control or 135°F (57°C) or greater when removed from hot holding temperature control;<sup>P</sup>
2. The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;<sup>Pf</sup>
3. The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from temperature control;<sup>P</sup> and
4. The food in unmarked containers or packages, or marked to exceed a four-hour limit shall be discarded.<sup>P</sup>

C. If time without temperature control is used as the public health control up to a maximum of six hours:

1. The food shall have an initial temperature of 41°F (5°C) or less when removed from temperature control and the food temperature may not exceed 70°F (21°C) within a maximum time period of six hours;<sup>P</sup>

2. The food shall be monitored to ensure the warmest portion of the food does not exceed 70°F (21°C) during the six-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 70°F (21°C) during the six-hour holding period;<sup>Pf</sup>

3. The food shall be marked or otherwise identified to indicate:<sup>Pf</sup>

a. The time when the food is removed from 41°F (5°C) or less cold-holding temperature control,<sup>Pf</sup> and

b. The time that is six hours past the point in time when the food is removed from 41°F (5°C) or less cold-holding temperature control;<sup>Pf</sup>

4. The food shall be:

a. Discarded if the temperature of the foods exceeds 70°F (21°C);<sup>P</sup> or

b. Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six hours from the point in time when the food is removed from 41°F (5°C) or less cold-holding temperature control;<sup>P</sup> and

5. The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit shall be discarded.<sup>P</sup>

D. A food establishment that serves a highly susceptible population may not use time as specified under subsection A, B, or C of this section as the public health control for raw eggs.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-860. Variance requirement.

A food establishment shall obtain a variance from the department as specified in 12VAC5-421-3570 and 12VAC5-421-3580 before:<sup>Pf</sup>

1. Smoking food as a method of food preservation rather than as a method of flavor enhancement;<sup>Pf</sup>

2. Curing food;<sup>Pf</sup>

3. Using food additives or adding components such as vinegar.<sup>Pf</sup>

a. As a method of food preservation rather than as a method of flavor enhancement;<sup>Pf</sup>  
or

b. To render a food so that it is not a time/temperature control for safety food;<sup>Pf</sup>

4. Packaging time/temperature control for safety food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under 12VAC5-421-870;<sup>Pf</sup>
5. Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;<sup>Pf</sup>
6. Custom processing animals that are for personal use as food and not for sale or service in a food establishment;<sup>Pf</sup>
7. Sprouting seeds or beans;<sup>Pf</sup> or
8. Preparing food by another method that is determined by the department to require a variance.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-870. Reduced oxygen packaging without a variance, criteria.

A. Except for a food establishment that obtains a variance as specified under 12VAC5-421-860, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.<sup>P</sup>

B. Except as specified under subsection F of this section, a food establishment that packages time/temperature control for safety food using a reduced oxygen method shall implement a HACCP plan that contains the information specified under subdivisions 3 and 4 of 12VAC5-421-3630 and that:<sup>Pf</sup>

1. Identifies food to be packaged;<sup>Pf</sup>
2. Except as specified in subsections C, D, and E of this section, requires that the packaged food shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:<sup>Pf</sup>
  - a. Has an  $A_w$  of 0.91 or less;<sup>Pf</sup>
  - b. Has a pH of 4.6 or less;<sup>Pf</sup>
  - c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21 and is received in an intact package;<sup>Pf</sup> or
  - d. Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables.<sup>Pf</sup>

3. Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:<sup>Pf</sup>

a. Maintain food at 41°F (5°C) or below;<sup>Pf</sup> and

b. Discard the food if within 30 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;<sup>Pf</sup>

4. Limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;<sup>P</sup>

5. Includes operational procedures that:

a. Prohibit contacting ready-to-eat food with bare hands as specified in 12VAC5-421-450 B;<sup>Pf</sup>

b. Identify a designated work area and the method by which:<sup>Pf</sup>

(1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination;<sup>Pf</sup> and

(2) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation;<sup>Pf</sup> and

c. Delineate cleaning and sanitization procedures for food contact surfaces;<sup>Pf</sup>

6. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:<sup>Pf</sup>

a. Concepts required for safe operation;<sup>Pf</sup>

b. Equipment and facilities;<sup>Pf</sup> and

c. Procedures specified under subdivision B 5 of this section and subdivisions 3 and 4 of 12VAC5-421-3630;<sup>Pf</sup> and

7. Is provided to the department prior to implementation as specified under 12VAC5-421-3620 B.

C. Except for fish that is frozen before, during, and after packaging and bears a label indicating that it is to be kept frozen until time of use, a food establishment may not package fish using a reduced oxygen packaging method.<sup>P</sup>

D. Except as specified in subsections C and F of this section, a food establishment that packages time/temperature control for safety food using a cook-chill or sous-vide process shall:

1. Provide to the department prior to implementation a HACCP plan that contains the information as specified under subdivisions 3 and 4 of 12VAC5-421-3630;<sup>Pf</sup>

2. Ensure the food is:

- a. Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the bagged product to another business entity or the consumer;<sup>Pf</sup>
- b. Cooked to heat all parts of the food to a temperature and for a time as specified under subsections A, B, and C of 12VAC5-421-700;<sup>P</sup>
- c. Protected from contamination before and after cooking as specified in 12VAC5-421-450 through 12VAC5-421-765;<sup>P</sup>
- d. Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking, and before reaching a temperature below 135°F (57°C);<sup>P</sup>
- e. Cooled to 41°F (5°C) in the sealed package as specified under 12VAC5-421-800; and:<sup>P</sup>
  - (1) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within 30 days after the date of packaging;<sup>P</sup>
  - (2) Held at 41°F (5°C) or less for no more than seven days, at which time the food must be consumed or discarded;<sup>P</sup> or
  - (3) Held frozen with no shelf-life restriction while frozen until consumed or used;<sup>P</sup>
- f. Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;<sup>Pf</sup>
- g. If transported off site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation;<sup>Pf</sup> and
- h. Labeled with the product name and the date packaged;<sup>Pf</sup> and

3. Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan, maintained and:

- a. Made available to the department upon request;<sup>Pf</sup> and
- b. Held for six months;<sup>Pf</sup> and

4. Implement written operational procedures as specified under subdivision B 5 of this section and a training program as specified under subdivision B 6 of this section.<sup>Pf</sup>

E. Except as specified under subsection F of this section, a food establishment that packages cheese using a reduced oxygen packaging method shall:

1. Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150, 21 CFR 133.169, or 21 CFR 133.187;<sup>P</sup>
2. Have a HACCP plan that contains the information specified in subdivisions 3 and 4 of



12VAC5-421-3630 and as specified under subdivisions B 1, B 3 a, B 5, and B 6 of this section;<sup>Pf</sup>

3. Label the package on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first;<sup>Pf</sup> and

4. Discard the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.<sup>Pf</sup>

F. A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package time/temperature control for safety food that is always:

1. Labeled with the production time and date;

2. Held at 41°F (5°C) or less during refrigerated storage; and

3. Removed from its packaging in the food establishment within 48 hours after packaging.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## Article 6. Food Identity, Presentation, and On-Premises Labeling

### 12VAC5-421-880. Standards of identity.

Packaged food shall comply with standard of identity requirements in 21 CFR Parts 131169 and 9 CFR Part 319, and the general requirements in 21 CFR Part 130 and 9 CFR Part 319, Subpart A.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-890. Honestly presented.

A. Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

B. Food or color additives, colored overwraps, or lights shall not be used to misrepresent the true appearance, color, or quality of a food.

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

12VAC5-421-900. Food labels.

A. Food packaged in a food establishment, shall be labeled as specified in accordance with all applicable laws and regulations, including 21 CFR Part 101 and 9 CFR Part 317.

B. Label information shall include:

1. The common name of the food, or absent a common name, an adequately descriptive identity statement;
2. If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors, and chemical preservatives, if contained in the food;
3. An accurate declaration of the net quantity of contents;
4. The name and place of business of the manufacturer, packer, or distributor; and
5. The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient;<sup>Pf</sup>
6. Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) through (5), nutrition labeling as specified in 21 CFR Part 101 and 9 CFR Part 317, Subpart B; and
7. For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

C. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

1. The manufacturer's or processor's label that was provided with the food; or
2. A card, sign, or other method of notification that includes the information specified under subdivisions B 1, 2, and 6 of this section.

D. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

1. A health, nutrient content, or other claim is not made;
2. There are no state or local laws requiring labeling; and
3. The food is manufactured or prepared on the premises of the food establishment or at

another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 26, Issue 6, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-910. Other forms of information.

A. If required by law, consumer warnings shall be provided.

B. Food establishment or manufacturers' dating information on foods shall not be concealed or altered.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

12VAC5-421-920. [Reserved].

Statutory Authority

Historical Notes

12VAC5-421-930. Consumer advisory: consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens.

A. Except as specified in 12VAC5-421-700 C and D 4 and under subdivision 3 of 12VAC5-421-950, if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in subsections B and C of this section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.<sup>Pf</sup>

B. Disclosure shall include:

1. A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)";<sup>Pf</sup> or
2. Identification of the animal-derived foods by asterisking them to a footnote that states

that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.<sup>Pf</sup>

C. Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

1. "Regarding the safety of these items, written information is available upon request";<sup>Pf</sup>
2. "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness";<sup>Pf</sup> or
3. "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## Article 7. Contaminated Food

12VAC5-421-940. Discarding or reconditioning unsafe, adulterated, or contaminated food.

A. A food that is unsafe, adulterated, or not honestly presented as specified in 12VAC5-421-260 shall be discarded or reconditioned according to an approved procedure.<sup>P</sup>

B. Food that is not from an approved source as specified under 12VAC5-421-270 through 12VAC5-421-330 shall be discarded.<sup>P</sup>

C. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 12VAC5-421-90 shall be rendered unusable and discarded.<sup>P</sup>

D. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## Article 8. Special Requirements for Highly Susceptible Populations

### 12VAC5-421-950. Pasteurized foods, prohibited reservice, and prohibited food.

In a food establishment that serves a highly susceptible population:

1. The following criteria apply to juice:

- a. For the purposes of this paragraph only, children who are age nine or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
- b. Prepackaged juice or a prepackaged beverage containing juice that bears a warning label as specified in 21 CFR 101.17(g) or a packaged juice or beverage containing juice that bears a warning label as specified under subdivision 2 of 12VAC5-421-765 may not be served or offered for sale;<sup>P</sup> and
- c. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in subdivisions 3, 4, and 5 of 12VAC5-421-3630 and as specified in 21 CFR 120.24.<sup>P</sup>

2. Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:<sup>P</sup>

- a. Foods such as Caesar salad, hollandaise or b ernaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages;<sup>P</sup> and
- b. Except as specified in subdivision 6 of this section, recipes in which more than one egg is broken and the eggs are combined.<sup>P</sup>

3. The following foods shall not be served or offered for sale in a ready-to-eat form:<sup>P</sup>

- a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;<sup>P</sup>
- b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue;<sup>P</sup> and
- c. Raw seed sprouts.<sup>P</sup>

4. Food employees shall not contact ready-to-eat food as specified in 12VAC5-421-450 B and E.<sup>P</sup>

5. Time only, as the public health control as specified under 12VAC5-421-850 D, may not be used for raw eggs.<sup>P</sup>

6. Subdivision 2 b of this section does not apply if:

- a. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 12VAC5-421-700 A 1, and served immediately, such as an omelet, souffl e, or scrambled eggs;

b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

c. The preparation of the food is conducted under a HACCP plan that:

(1) Identifies the food to be prepared;

(2) Prohibits contacting ready-to-eat food with bare hands;

(3) Includes specifications and practices that ensure:

(a) Salmonella Enteritidis growth is controlled before and after cooking; and

(b) Salmonella Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 12VAC5-421-700 A 2;

(4) Contains the information specified under subdivision 4 of 12VAC5-421-3630 including procedures that:

(a) Control cross contamination of ready-to-eat food with raw eggs; and

(b) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(5) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

7. Except as specified in subdivision 8 of this section, food may be re-served as specified under 12VAC5-421-680 B 1 and 2.

8. Food may not be re-served under the following conditions:

a. Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.

b. Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## Part IV. Equipment, Utensils, and Linens

### Article 1. Materials for Construction and Repair

12VAC5-421-960. Multiuse, characteristics.

Materials that are used in the construction of utensils and food-contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:<sup>P</sup>

1. Safe;<sup>P</sup>
2. Durable, corrosion-resistant, and nonabsorbent;
3. Sufficient in weight and thickness to withstand repeated warewashing;
4. Finished to have a smooth, easily cleanable surface; and
5. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-970. Cast iron, use limitation.

- A. Except as specified in subsections B and C of this section, cast iron shall not be used for utensils or food-contact surfaces of equipment.
- B. Cast iron may be used as a surface for cooking.
- C. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

#### 12VAC5-421-980. Lead, use limitation.

- A. Ceramic, china, crystal utensils, and decorative utensils such as hand-painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:<sup>P</sup>

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5

Large Hollowware (excluding pitchers)	Bowls > 1.1 Liter (1.16 Quart)	1.0
Small Hollowware (excluding cups and mugs)	Bowls <1.1 Liter (1.16 Quart)	2.0
Flat tableware	Plates, Saucers	3.0

B. Pewter alloys containing lead in excess of 0.05% may not be used as a food contact surface.  
P

C. Solder and flux containing lead in excess of 0.2% may not be used as a food contact surface.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-990. Copper, use limitation.

A. Except as specified in subsections B and C of this section, copper and copper alloys such as brass shall not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.<sup>P</sup>

B. Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

C. Copper and copper alloys may be used in contact with apple butter and molasses that have a pH below 6 during the typical processing times (i.e., mixing, cooking, and cooling) for these products, as long as laboratory analysis does not reveal excessive levels of copper or other heavy metals in the finished product. Apple butter and molasses may not be held or stored in copper or copper alloys for time periods any longer than the typical processing times for these products.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1000. Galvanized metal, use limitation.

Galvanized metal shall not be used for utensils or food-contact surfaces of equipment that



are used in contact with acidic food.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1010. Sponges, use limitation.**

Sponges shall not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-1020. (Repealed.)**

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; repealed, Volume 26, Issue 7, eff. January 1, 2010.

**12VAC5-421-1030. (Repealed.)**

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; repealed, Volume 26, Issue 7, eff. January 1, 2010.

**12VAC5-421-1040. Wood, use limitation.**

A. Except as specified in subsections B, C, and D of this section, wood and wood wicker shall not be used as a food-contact surface.

B. Hard maple or an equivalently hard, close-grained wood may be used for:

1. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

2. Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.

C. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

D. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

1. Untreated wood containers; or

2. Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

#### 12VAC5-421-1050. Nonstick coatings, use limitation.

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

#### 12VAC5-421-1060. Nonfood-contact surfaces.

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

#### 12VAC5-421-1070. Single-service and single-use, characteristics.

A. Materials that are used to make single-service and single-use articles shall not:

1. Allow the migration of deleterious substances;<sup>P</sup> or
2. Impart colors, odors, or tastes to food.

B. Materials that are used to make single-service and single-use articles shall be:

1. Safe,<sup>P</sup> and
2. Clean.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## Article 2. Design and Construction

### 12VAC5-421-1080. Equipment and utensils.

Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1090. Food temperature measuring devices.

Food temperature measuring devices shall not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1100. Food-contact surfaces; cleanability.

A. Multiuse food-contact surfaces shall be:

1. Smooth;<sup>Pf</sup>

2. Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;<sup>Pf</sup>
3. Free of sharp internal angles, corners, and crevices;<sup>Pf</sup>
4. Finished to have smooth welds and joints;<sup>Pf</sup> and
5. Except as specified in subsection B of this section, accessible for cleaning and inspection by one of the following methods:
  - a. Without being disassembled;<sup>Pf</sup>
  - b. By disassembling without the use of tools;<sup>Pf</sup> or
  - c. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.<sup>Pf</sup>

B. Subdivision A 5 of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-1110. CIP equipment.

A. CIP equipment shall meet the characteristics specified under 12VAC5-421-1100 and shall be designed and constructed so that:

1. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces,<sup>Pf</sup> and
2. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions.

B. CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-1120. "V" threads; use limitation.

"V" type threads shall not be used on food-contact surfaces. This section does not apply to hot oil cooking or filtering equipment.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-1130. Hot oil filtering equipment.

Hot oil filtering equipment shall meet the characteristics specified under 12VAC5-421-1100 or 12VAC5-421-1110 and shall be readily accessible for filter replacement and cleaning of the filter.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1140. Can openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1150. Nonfood-contact surfaces.

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1160. Kick plates; removable.

Kick plates shall be designed so that the areas behind them are accessible for inspection and

cleaning by being:

1. Removable by one of the methods specified under subdivision 5 of 12VAC5-421-1100 or capable of being rotated open; and
2. Removable or capable of being rotated open without unlocking equipment doors.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1170. Ventilation hood systems; filters.

Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1180. Temperature measuring devices; food.

A. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to plus or minus 1°C in the intended range of use.<sup>Pf</sup>

B. Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus 2°F in the intended range of use.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-1190. Temperature measuring devices; ambient air and water.

A. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to plus or minus 1.5°C in the intended range of use.<sup>Pf</sup>

B. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus 3°F in the intended range of use.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-1200. Pressure measuring devices, mechanical warewashing equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 1 pounds per square inch (7 kilopascals) or smaller and shall be accurate to  $\pm 2$  pounds per square inch ( $\pm 14$  kilopascals) in the range indicated on the manufacturer's data plate.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-1210. Ventilation hood systems, drip prevention.

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1220. Equipment openings, closures and deflectors.

- A. A cover or lid for equipment shall overlap the opening and be sloped to drain.
- B. An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch (5 millimeters).
- C. Except as specified under subsection D of this section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.
- D. If a watertight joint is not provided:

1. The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and
2. The opening shall be flanged as specified under subsection B of this section.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1230. Dispensing equipment, protection of equipment and food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;
2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
  - a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or
  - b. Available for self-service during hours when it is not under the full-time supervision of a food employee; and
4. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.
5. Dispensing equipment in which time/temperature control for safety food in homogenous liquid form is maintained outside of the temperature control requirements as specified in 12VAC5-421-820 C shall:
  - a. Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment;<sup>P</sup> and
  - b. Conform to the requirements for this equipment as specified in NSF/ANSI 18-2006



Manual Food and Beverage Dispensing Equipment, 2012, (NSF International).<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-1240. Vending machine, vending stage closure.

The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not time/temperature control for safety food such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

1. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
2. Available for self-service during hours when it is not under the full-time supervision of a food employee.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-1250. Bearings and gear boxes, leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food-contact surfaces.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

12VAC5-421-1260. Beverage tubing, separation.

Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-1270. Ice units, separation of drains.

Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-1280. Condenser unit, separation.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1290. Can openers on vending machines.

Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1300. Molluscan shellfish tanks.

A. Except as specified under subsection B of this section, molluscan shellfish life support system display tanks shall not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to consumers that the shellfish are for display only.<sup>P</sup>

B. Molluscan shellfish life-support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the department as specified in 12VAC5-421-3570 and a HACCP plan that:<sup>Pf</sup>

1. Is submitted by the permit holder and approved as specified under 12VAC5-421-3620;<sup>Pf</sup> and
2. Ensures that:
  - a. Water used with fish other than molluscan shellfish does not flow into the molluscan tank;<sup>Pf</sup>
  - b. The safety and quality of the shellfish as they were received are not compromised by the use of the tank;<sup>Pf</sup> and
  - c. The identity of the source of the shellstock is retained as specified under 12VAC5-421-440.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-1310. Vending machines, automatic shutoff.

A. A machine vending time/temperature control for safety food shall have an automatic control that prevents the machine from vending food:

1. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Part III (12VAC5-421-260 et seq.) of this chapter;<sup>P</sup> and
2. If a condition specified under subdivision 1 of this subsection occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Part III.<sup>P</sup>

B. When the automatic shutoff within a machine vending time/temperature control for safety food is activated:

1. In a refrigerated vending machine, the ambient temperature shall not exceed 41°F (5°C) for more than 30 minutes immediately after the machine is filled, serviced, or restocked;<sup>P</sup> or
2. In a hot holding vending machine, the ambient temperature shall not be less than 135°F (57°C) for more than 120 minutes immediately after the machine is filled, serviced, or

restocked.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1320. Temperature measuring devices.

A. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

B. Except as specified in subsection C of this section, cold or hot holding equipment used for time/temperature control for safety food shall be designed to include and shall be equipped with at least one integral or affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

C. Subsection B of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bain-maries, steam tables, insulated food transport containers, and salad bars.

D. Temperature measuring devices shall be designed to be easily readable.

E. Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F or 1°C in the intended range of use.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1330. Warewashing machine, data plate operating specifications.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. Temperatures required for washing, rinsing, and sanitizing;
2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-1340. Warewashing machines, internal baffles.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-1350. Warewashing machines, temperature measuring devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank;<sup>Pf</sup> and
2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1360. Manual warewashing equipment, heaters and baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device that is capable of maintaining water at a temperature not less than 171°F (77°C);<sup>Pf</sup> and

2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-1370. Warewashing machines, sanitizer level indicator automatic dispensing of detergents and sanitizers.

A. A warewashing machine installed after March 1, 2002, shall be equipped to:

1. Automatically dispense detergents and sanitizers;<sup>Pf</sup> and

2. Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.<sup>Pf</sup>

B. Existing warewashing equipment shall be upgraded or replaced to meet the requirements of subsection A of this section.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-1380. Warewashing machines, flow pressure device.

A. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and

B. If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a one-fourth inch or 6.4 millimeter Iron Pipe Size (IPS) valve.

C. Subsections A and B of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 35, Issue 1, eff. October 3, 2018; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-1390. Warewashing sinks and drainboards, self-draining.**

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1400. Equipment compartments, drainage.**

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1410. Vending machines, liquid waste products.**

A. Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

B. Vending machines that dispense liquid food in bulk shall be:

1. Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and
2. Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

C. Shutoff devices specified under subdivision B 2 of this section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1420. Case lot handling apparatuses, movability.**

Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

**12VAC5-421-1430. Vending machine doors and openings.**

A. Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch or 1.5 millimeters by:

1. Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch or 1.5 millimeters. Screening of 12 mesh to 1 inch (12 or more mesh to 2.5 centimeters) meets this requirement;
2. Being effectively gasketed;
3. Having interface surfaces that are at least one-half inch wide or 13 millimeters; or
4. Jambs or surfaces used to form an L-shaped entry path to the interface.

B. Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1435. Food equipment, certification and classification.**

Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with the



requirements of Articles 1 (12VAC5-421-960 et seq.) and 2 (12VAC5-421-1080 et seq.) of this part.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-1440. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### Article 3. Numbers and Capacities

12VAC5-421-1450. Cooling, heating, and holding capacities.

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Part III (12VAC5-421-260 et seq.) of this chapter.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-1460. Manual warewashing, sink compartment requirements.

A. Except as specified in subsection C of this section, a sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.<sup>Pf</sup>

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in subsection C of this section shall be used.<sup>Pf</sup>

C. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:

1. High-pressure detergent sprayers;

2. Low-pressure or line-pressure spray detergent foamers;
3. Other task-specific cleaning equipment;
4. Brushes or other implements;
5. Two-compartment sinks as specified under subsections D and E of this section; or
6. Receptacles that substitute for the compartments of a multicompartment sink.

D. Before a two-compartment sink is used:

1. The permit holder shall have its use approved; and
2. The permit holder shall limit the number of kitchenware items cleaned and sanitized in the two-compartment sink and shall limit warewashing to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or cleanup at the end of a shift, and shall:
  - a. (i) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and (ii) use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under 12VAC5-421-1710; or
  - b. A hot water sanitization immersion step shall be used as specified under subdivision 3 of 12VAC5-421-1860.

E. A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1470. Drainboards.

Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1480. Ventilation hood systems, adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1490. Clothes washers and dryers.

A. Except as specified in subsection B of this section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

B. If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under 12VAC5-421-1970, a mechanical clothes washer and dryer need not be provided.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1500. Utensils, consumer self-service.

A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-1510. Food temperature measuring devices.

A. Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Part III (12VAC5-421-260 et seq.) of this chapter.<sup>Pf</sup>

B. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish fillets.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1520. Temperature measuring devices, manual and mechanical warewashing.**

A. In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.<sup>Pf</sup>

B. In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-1530. Sanitizing solutions, testing devices.**

A test kit or other device that accurately measures the concentration in mg/L (ppm) of sanitizing solutions shall be provided and readily accessible for use.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1535. Cleaning agents and sanitizers, availability.**

A. Cleaning agents that are used to clean equipment and utensils as specified under Article 6 (12VAC5-421-1770 et seq.) of this part shall be provided and available for use during all hours of operation.

B. Except for chemical sanitizers that are generated on site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under Article 7 shall be provided and available for use during all hours of operation.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## Article 4. Location and Installation

12VAC5-421-1540. Equipment, clothes washers and dryers, and storage cabinets, contamination prevention.

A. Except as specified in subsection B of this section, equipment, cabinets used for the storage of food, or cabinets used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles shall not be located:

1. In locker rooms;
2. In toilet rooms or vestibules;
3. In garbage rooms;
4. In mechanical rooms;
5. Under sewer lines that are not shielded to intercept potential drips;
6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
7. Under open stairwells; or
8. Under other sources of contamination.

B. A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

C. If a mechanical clothes washer or dryer is provided, it shall be located only where there is no exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; and so that the washer or dryer is protected from contamination.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

12VAC5-421-1550. Fixed equipment, spacing or sealing.

A. Equipment that is fixed because it is not easily movable shall be installed so that it is:

1. Spaced to allow access for cleaning along the sides, behind, and above the equipment;
2. Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1/32 inch or 1 millimeter; or
3. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

B. Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

1. Sealed; or
2. Elevated on legs as specified under 12VAC5-421-1560 D.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-1560. Fixed equipment, elevation or sealing.

A. Except as specified in subsections B and C of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 6 inch (15 centimeter) clearance between the floor and the equipment.

B. If no part of the floor under the floor-mounted equipment is more than 6 inches (15 centimeters) from the point of cleaning access, the clearance space may be only 4 inches (10 centimeters).

C. This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

D. Except as specified in subsection E of this section, counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 4-inch (10 centimeter) clearance between the table and the equipment.

E. The clearance space between the table and counter-mounted equipment may be:

1. Three inches (7.5 centimeters) if the horizontal distance of the table top under the equipment is no more than 20 inches (50 centimeters) from the point of access for cleaning; or
2. Two inches (5 centimeters) if the horizontal distance of the table top under the equipment is no more than 3 inches (7.5 centimeters) from the point of access for cleaning.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## Article 5. Maintenance and Operation

### 12VAC5-421-1570. Good repair and proper adjustment.

A. Equipment shall be maintained in a state of repair and condition that meets the requirements specified under Articles 1 (12VAC5-421-960 et seq.) and 2 (12VAC5-421-1080 et seq.) of this part. Unused or non-functioning equipment shall be removed from the premises.

B. Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

C. Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1580. Cutting surfaces.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1590. Microwave ovens.

Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1600. Warewashing equipment, cleaning frequency.

A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under 12VAC5-421-1470 shall be cleaned:

1. Before use;
2. Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
3. If used, at least every 24 hours.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1610. Warewashing machines, manufacturers' operating instructions.

A. A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

B. A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1620. Warewashing sinks, use limitation.

A. A warewashing sink shall not be used for handwashing.

B. If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 12VAC5-421-1600 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under Article 7 (12VAC5-421-1885 et seq.) of this part before and after using the sink to wash produce or thaw food.

Statutory Authority



§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-1630. Warewashing equipment, cleaning agents.**

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 12VAC5-421-1460 C, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1640. Warewashing equipment, clean solutions.**

The wash, rinse, and sanitize solutions shall be maintained clean.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-1650. Manual warewashing equipment, wash solution temperature.**

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F (43°C) or the temperature specified on the cleaning agent manufacturer's label instructions.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1660. Mechanical warewashing equipment, wash solution temperature.**

A. The temperature of the wash solution in spray type warewashers that use hot water to sanitize shall not be less than:

1. For a stationary rack, single temperature machine, 165°F (74°C);<sup>Pf</sup>
2. For a stationary rack, dual temperature machine, 150°F (66°C);<sup>Pf</sup>
3. For a single tank, conveyor, dual temperature machine, 160°F (71°C);<sup>Pf</sup> or
4. For a multitank, conveyor, multitemperature machine, 150°F (66°C).<sup>Pf</sup>

B. The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize shall not be less than 120°F (49°C).<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1670. Manual warewashing equipment, hot water sanitization temperatures.**

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 171°F (77°C) or above.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1680. Mechanical warewashing equipment, hot water sanitization temperatures.**

A. Except as specified in subsection B of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold shall not be more than 194°F (90°C), or less than:<sup>Pf</sup>

1. For a stationary rack, single temperature machine, 165°F (74°C);<sup>Pf</sup> or
2. For all other machines, 180°F (82°C).<sup>Pf</sup>

B. The maximum temperature specified under subsection A of this section does not apply to

the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1690. Mechanical warewashing equipment, sanitization pressure.

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than five pounds per square inch (35 kilopascals) or more than 30 pounds per square inch (200 kilopascals).

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-1700. Manual and mechanical warewashing equipment, chemical sanitization - 2011 temperature, pH, concentration, and hardness.

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified under subdivision 3 of 12VAC5-421-1900 shall meet the criteria as specified under 12VAC5-421-3380, shall be used in accordance with the EPA-registered label use instructions,<sup>P</sup> and shall be used as follows:

1. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:<sup>P</sup>

Minimum Concentration mg/L (ppm)	Minimum Temperature	
	pH 10 or less °F (°C)	pH 8 or less °F (°C)
25-49	120 (49)	120 (49)
50-99	100 (38)	75 (24)
100	55 (13)	55 (13)

2. An iodine solution shall have a:

- a. Minimum temperature of 68°F (20°C);<sup>P</sup>
  - b. pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective;<sup>P</sup> and
  - c. Concentration between 12.5 mg/L (ppm) and 25 mg/L (ppm);<sup>P</sup>
3. A quaternary ammonium compound solution shall:
- a. Have a minimum temperature of 75°F (24°C);<sup>P</sup>
  - b. Have a concentration as specified under 12VAC5-421-3380 and as indicated by the manufacturer's use directions included in the labeling;<sup>P</sup> and
  - c. Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label;<sup>P</sup>
4. If another solution of a chemical specified under subdivisions 1, 2 and 3 of this section is used, the permit holder shall demonstrate to the department that the solution achieves sanitization and the use of the solution shall be approved;<sup>P</sup>
5. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions;<sup>P</sup> and
6. If a chemical sanitizer is generated by a device located on site at the food establishment it shall be used as specified in subdivisions 1 through 4 of this section and shall be produced by a device that:
- a. Complies with regulation as specified in §§ 2(q)(1) and 12 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA),<sup>P</sup>
  - b. Complies with 40 CFR 152.500 and 40 CFR 156.10,<sup>P</sup>
  - c. Displays the EPA device manufacturing facility registration number on the device,<sup>Pf</sup> and
  - d. Is operated and maintained in accordance with manufacturer's instructions.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-1710. Manual warewashing equipment, chemical sanitization using detergent-sanitizers.

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there

is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-1720. Warewashing equipment, determining chemical sanitizer concentration.**

Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1730. Good repair and calibration.**

A. Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under Articles 1 (12VAC5-421-960 et seq.) and 2 (12VAC5-421-1080 et seq.) of this part or shall be discarded.

B. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.<sup>Pf</sup>

C. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1740. Single-service and single-use articles, required use.**

A food establishment without facilities specified under Articles 6 (12VAC5-421-1770 et seq.) and 7 (12VAC5-421-1885 et seq.) of this part for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use

articles for use by food employees and single-service articles for use by consumers.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1750. Single-service and single-use articles, use limitation.**

A. Single-service and single-use articles shall not be reused.

B. The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-1760. Shells, use limitation.**

Mollusk and crustacea shells shall not be used more than once as serving containers.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

## **Article 6. Cleaning of Equipment and Utensils**

**12VAC5-421-1770. Equipment, food-contact surfaces, non-food-contact surfaces, and utensils.**

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.<sup>Pf</sup>

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

C. Non-food-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-1780. Equipment food-contact surfaces and utensils.

A. Equipment food-contact surfaces and utensils shall be cleaned:

1. Except as specified in subsection B of this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;<sup>P</sup>
2. Each time there is a change from working with raw foods to working with ready-to-eat foods;<sup>P</sup>
3. Between uses with raw fruits and vegetables and with time/temperature control for safety food;<sup>P</sup>
4. Before using or storing a food temperature measuring device;<sup>P</sup> and
5. At any time during the operation when contamination may have occurred.<sup>P</sup>

B. Subdivision A 1 of this section does not apply if the food contact surface or utensil is in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature as specified under 12VAC5-421-700 than the previous type.

C. Except as specified in subsection D of this section, if used with time/temperature control for safety food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours.<sup>P</sup>

D. Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every four hours if:

1. In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under Part III (12VAC5-421-260 et seq.) of this chapter and the containers are cleaned when they are empty;
2. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and (i) the utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and (ii) the cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment:

Temperature	Cleaning Frequency
41°F (5.0°C) or less	24 hours
>41°F - 45°F (>5.0°C - 7.2°C)	20 hours
>45°F - 50°F (>7.2°C - 10.0°C)	16 hours

>50°F - 55°F (>10.0°C - 12.8°C)	10 hours
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3. Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under Part III, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;
  4. Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Part III;
  5. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;
  6. The cleaning schedule is approved based on consideration of:
    - a. Characteristics of the equipment and its use;
    - b. The type of food involved;
    - c. The amount of food residue accumulation; and
    - d. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or
  7. In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°F (57°C) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.
- E. Except when dry cleaning methods are used as specified under 12VAC5-421-1810, surfaces of utensils and equipment contacting food that is not time/temperature control for safety food shall be cleaned:
1. At any time when contamination may have occurred;
  2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
  3. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers;
  4. At a frequency specified by the manufacturer or absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold. To include equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment.



§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1790. Cooking and baking equipment.

A. The food-contact surfaces of in-use cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in 12VAC5-421-1780 D 6.

B. The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1800. Nonfood-contact surfaces.

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-1810. Dry cleaning.

A. If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not time/temperature control for safety food.

B. Cleaning equipment used in dry cleaning food-contact surfaces shall not be used for any other purpose.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-1820. Precleaning.

A. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

B. If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

## 12VAC5-421-1830. Loading of soiled items, warewashing machines.

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. Exposes the items to the unobstructed spray from all cycles; and
2. Allows the items to drain.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1840. Wet cleaning.

A. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

B. The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1850. Washing, procedures for alternative manual warewashing

## equipment.

If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in 12VAC5-421-1460 C in accordance with the following procedures:

1. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
2. Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and
3. Equipment and utensils shall be washed as specified under 12VAC5-421-1840 A.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-1860. Rinsing procedures.

Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

1. Use of a distinct, separate water rinse after washing and before sanitizing if using:
  - a. A 3-compartment sink,
  - b. Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified in 12VAC5-421-1460 C, or
  - c. A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
2. Use of a detergent-sanitizer as specified under 12VAC5-421-1710 if using:
  - a. Alternative warewashing equipment as specified in 12VAC5-421-1460 C that is approved for use with a detergent-sanitizer, or
  - b. A warewashing system for CIP equipment;
3. Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a 2-compartment sink operation;
4. If using a warewashing machine that does not recycle the sanitizing solution as specified under subdivision 5 of this section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:

a. Integrated in the application of the sanitizing solution, and

b. Wasted immediately after each application; or

5. If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1870. (Repealed.)**

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1880. (Repealed.)**

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; repealed, Volume 26, Issue 7, eff. January 1, 2010.

**12VAC5-421-1885. Food-contact surfaces and utensils.**

Equipment food-contact surfaces and utensils shall be sanitized.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-1890. Before use after cleaning.**

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

## Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-1900. Hot water and chemical.

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

1. Hot water manual operations by immersion for at least 30 seconds as specified under 12VAC5-421-1670;<sup>P</sup>
2. Hot water mechanical operations by being cycled through equipment that is set up as specified under 12VAC5-421-1610, 12VAC5-421-1680, and 12VAC5-421-1690 and achieving a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator;<sup>P</sup> or
3. Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 12VAC5-421-1700. Contact times shall be consistent with those on EPA-registered label use instructions by providing:
  - a. Except as specified under subdivision 3 b of this section, a contact time of at least 10 seconds for a chlorine solution specified under subdivision 1 of 12VAC5-421-1700;<sup>P</sup>
  - b. A contact time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 100°F (38°C) or a pH of 8 or less and a temperature of at least 75°F (24°C);<sup>P</sup>
  - c. A contact time of at least 30 seconds for other chemical sanitizing solutions;<sup>P</sup> or
  - d. A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 12VAC5-421-10.<sup>P</sup>

## Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

## Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### Article 8. Laundering

#### 12VAC5-421-1910. Clean linens.

Clean linens shall be free from food residues and other soiling matter.

## Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1920. Laundering frequency for linens, cloth gloves, napkins, and wiping cloths.**

- A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.
- B. Cloth gloves used as specified in 12VAC5-421-580 D shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork, and poultry.
- C. Linens that are used as specified under 12VAC5-421-560 and cloth napkins shall be laundered between each use.
- D. Wet wiping cloths shall be laundered daily.
- E. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-1930. Storage of soiled linens.**

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1940. Mechanical washing.**

- A. Except as specified in subsection B of this section, linens shall be mechanically washed.
- B. In food establishments in which only wiping cloths are laundered as specified in 12VAC5-421-1490 B, the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as

specified under 12VAC5-421-1600.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1950. Use of laundry facilities.**

A. Except as specified in subsection B of this section, laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

B. Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## Article 9. Protection of Clean Items

**12VAC5-421-1960. Equipment and utensils, air-drying required.**

After cleaning and sanitizing, equipment and utensils:

1. Shall be air dried or used after adequate draining as specified in 40 CFR 180.940 before contact with food; and
2. Shall not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-1970. Wiping cloths, air-drying locations.**

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in 12VAC5-421-1490 B shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-

use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 12VAC5-421-1700.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-1980. Food-contact surfaces.**

Lubricants as specified in 12VAC5-421-3420 shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

**12VAC5-421-1990. Equipment.**

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2000. Equipment, utensils, linens, and single-service and single-use articles.**

A. Except as specified in subsection D of this section, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

1. In a clean, dry location;
2. Where they are not exposed to splash, dust, or other contamination; and
3. At least six inches (15 cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under subsection A of this section and shall be stored:

1. In a self-draining position that allows air drying; and
2. Covered or inverted.



C. Single-service and single-use articles shall be stored as specified under subsection A of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15 cm) above the floor on dollies, pallets, racks, and skids that are designed as provided under 12VAC5-421-1420.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2010. Prohibitions.

A. Except as specified in subsection B of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles shall not be stored:

1. In locker rooms;
2. In toilet rooms or vestibules;
3. In garbage rooms;
4. In mechanical rooms;
5. Under sewer lines that are not shielded to intercept potential drips;
6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
7. Under open stairwells; or
8. Under other sources of contamination.

B. Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-2020. Kitchenware and tableware.

A. Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is

prevented.

B. Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

C. Except as specified under subsection B of this section, single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2030. Soiled and clean tableware.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2040. Preset tableware.

A. Except as specified in subsection B of this section, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted.

B. Preset tableware may be exposed if:

1. Unused settings are removed when a consumer is seated; or
2. Settings not removed when a consumer is seated are cleaned and sanitized before further use.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2045. Rinsing equipment and utensils after cleaning and sanitizing.

After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or used unless:

1. The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under Articles 2 (12VAC5-421-1080 et seq.) and 5 (12VAC5-421-1570) of this part; and
2. The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA-registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## Part V. Water, Plumbing, and Waste

### Article 1. Water

#### 12VAC5-421-2050. Approved system.

Pure water shall be obtained from an approved water system defined as:

1. A waterworks constructed, maintained, and operated in compliance with 12VAC5-590;<sup>P</sup>  
or
2. A private well constructed, maintained, and operated in compliance with 12VAC5-630.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-2060. System flushing and disinfection.

An approved water system shall be flushed and disinfected after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system. A sample shall be collected from the water system and the results of the analysis shall be total coliform negative prior to placing the water system into service.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2070. Bottled drinking water.**

Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR Part 129.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2080. Pure water standards.**

Except as specified under 12VAC5-421-2090:

1. Water from a waterworks shall meet water quality and quantity standards in accordance with 12VAC5-590;<sup>P</sup> and
2. Water from a private well shall meet the water quality standards in accordance with 12VAC5-630-370 and not exceed 10 mg/L of nitrate (as N).<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2090. Nonpotable water.**

- A. A nonpotable water supply shall be used only if its use is approved by the department.<sup>P</sup>
- B. Nonpotable water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-2100. Sampling.

Water from a private well shall be sampled and tested at least annually for nitrate and total coliform. <sup>Pf</sup>

1. If nitrate, which is reported as "N" on the test results, exceeds 10 mg/L (ppm), the owner shall notify the department within 24 hours from when the owner is notified of the nitrate positive test result. <sup>Pf</sup>
2. If a sample is total coliform positive, the positive culture medium shall be further analyzed to determine if E. coli is present. The owner shall notify the department within two calendar days from when the owner is notified of the coliform positive test result. <sup>Pf</sup>
3. If E. coli is present, the owner shall notify the department within 24 hours from when the owner is notified of the E. coli positive test result. <sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-2110. Sample report.

All sample reports for the private well shall be retained on file in the food establishment for a minimum of five years and be made available to the department upon request.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-2120. Capacity.

- A. The approved water system capacity shall be of sufficient capacity to meet the maximum daily water demands and the peak hourly water demands of the food establishment. <sup>Pf</sup>
- B. Hot water generation and distribution systems shall meet the peak hot water demands throughout the food establishment. <sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2130. Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under subdivisions 1 and 2 of 12VAC5-421-2160 to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2140. Water System.

Water shall be received from the source through the use of:

1. An approved public water main,<sup>Pf</sup> or
2. One or more of the following that shall be constructed, maintained, and operated according to law:<sup>Pf</sup>
  - a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,<sup>Pf</sup>
  - b. Water transport vehicles,<sup>Pf</sup> or
  - c. Water containers.<sup>Pf</sup>

Statutory Authority

Historical Notes

### 12VAC5-421-2150. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2160. Alternative water supply.

Water meeting the requirements specified under 12VAC5-421-2050 through 12VAC5-421-2130 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its

water supply through:

1. A supply of containers of commercially bottled drinking water;<sup>Pf</sup>
2. One or more closed portable water containers;<sup>Pf</sup>
3. An enclosed vehicular water tank;<sup>Pf</sup>
4. An on-premises water storage tank;<sup>Pf</sup> or
5. Piping, tubing, or hoses connected to an adjacent approved system in a manner approved by the department.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## Article 2. Plumbing System

### 12VAC5-421-2170. Approved materials.

- A. A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law.<sup>P</sup>
- B. A water filter shall be made of safe materials.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2180. Approved system and cleanable fixtures.

- A. A plumbing system shall be designed, constructed, and installed according to law.<sup>P</sup>
- B. A plumbing fixture such as a handwashing lavatory, toilet, or urinal shall be easily cleanable.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-2190. Handwashing sinks, water temperature, and flow.

A. A handwashing sink shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet.<sup>Pf</sup>

B. A steam mixing valve shall not be used at a handwashing sink.

C. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

D. An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-2200. Backflow prevention, air gap.

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and shall not be less than one inch (25 mm).<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-2210. Backflow prevention device, design standard.

A backflow or backsiphonage prevention device installed on a water supply system shall comply with the Virginia Uniform Statewide Building Code (13VAC5-63) for construction, installation, maintenance, inspection, and testing for that specific application and type of device.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.



## 12VAC5-421-2220. Conditioning device, design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-2230. Handwashing sinks, numbers, and capacities.

A. Except as specified in subsection B and C of this section, at least one handwashing sink, or the number of handwashing sinks necessary for their convenient use by employees in areas specified under 12VAC5-421-2280, and not fewer than the number of handwashing sinks required by law shall be provided.<sup>Pf</sup>

B. If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least one handwashing sink.

C. If approved, when food exposure is limited and handwashing sinks are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-2240. Toilets and urinals.

At least one toilet and not fewer than the toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-2250. Service sink.

A. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

B. Toilets and urinals shall not be used as a service sink for the disposal of mop water and similar liquid waste.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2260. Backflow prevention device, when required.

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb (threaded faucet) if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law by:

1. Providing an air gap as specified under 12VAC5-421-2200;<sup>P</sup> or
2. Installing an approved backflow prevention device as specified under 12VAC5-421-2210.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2270. Backflow prevention device, carbonator.

A. If not provided with an air gap as specified under 12VAC5-421-2200, a dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 1 inch (100 mesh to 25.4mm) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.<sup>P</sup>

B. A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under subsection A of this section.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-2280. Handwashing sinks, location.

A handwashing sink shall be located:

1. To allow convenient use by employees in food preparation, food dispensing, and warewashing areas;<sup>Pf</sup> and
2. In, or immediately adjacent to, toilet rooms.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2290. Backflow prevention device, location.

A backflow prevention device shall be located so that it may be serviced and maintained.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2300. Conditioning device, location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2310. Using a handwashing sink.

- A. A handwashing sink shall be maintained so that it is accessible at all times for employee use.<sup>Pf</sup>
- B. A handwashing sink shall not be used for purposes other than handwashing.<sup>Pf</sup>
- C. An automatic handwashing facility shall be used in accordance with manufacturer's instructions.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2320. Prohibiting a cross connection.

A. A person shall not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.

P

B. The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2330. Scheduling inspection and service for a water system device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge for a minimum of five years and made available to the department upon request.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-2340. Water reservoir of fogging devices, cleaning.

A. A reservoir that is used to supply water to a device such as a produce fogger shall be:

1. Maintained in accordance with manufacturer's specifications;<sup>P</sup>and
2. Cleaned in accordance with manufacturer's specifications or according to the procedures

specified under subsection B of this section, whichever is more stringent.<sup>P</sup>

B. Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

1. Draining and complete disassembly of the water and aerosol contact parts;<sup>P</sup>
2. Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;<sup>P</sup>
3. Flushing the complete system with water to remove the detergent solution and particulate accumulation;<sup>P</sup> and
4. Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L (ppm) hypochlorite solution.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

12VAC5-421-2350. System maintained in good repair.

A plumbing system shall be:

1. Repaired according to law;<sup>P</sup> and
2. Maintained in good repair.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

Article 3. Mobile Water Tank and Mobile Food Establishment Water Tank

12VAC5-421-2360. Mobile water tank approved materials.

Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:

1. Safe;<sup>P</sup>
2. Durable, corrosion resistant, and nonabsorbent; and
3. Finished to have a smooth, easily cleanable surface.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2370. Enclosed system, sloped to drain.**

A mobile water tank shall be:

1. Enclosed from the filling inlet to the discharge outlet; and
2. Sloped to an outlet that allows complete drainage of the tank.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2380. Inspection and cleaning port, protected and secured.**

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

1. Flanged upward at least one-half inch (13 mm); and
2. Equipped with a port cover assembly that is:
  - a. Provided with a gasket and a device for securing the cover in place, and
  - b. Flanged to overlap the opening and sloped to drain.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2390. "V" type threads, use limitation.**

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2400. Tank vent, protected.

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

1. 16 mesh to 1-inch (16 mesh to 25.4 mm) screen or equivalent when the vent is in a protected area; or
2. A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2410. Inlet and outlet, sloped to drain.

A. A water tank and its inlet and outlet shall be sloped to drain.

B. A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2420. Hose, construction and identification.

A hose used for conveying potable water from a water tank shall be:

1. Safe;<sup>P</sup>
2. Durable, corrosion resistant, and nonabsorbent;
3. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
4. Finished with a smooth interior surface; and
5. Clearly and durably identified as to its use if not permanently attached.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2430. Filter, compressed air.**

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and potable water system when compressed air is used to pressurize the water tank system.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2440. Protective cover or device.**

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2450. Mobile food establishment tank inlet.**

A mobile food establishment's water tank inlet shall be:

1. Three-fourths inch (19.1 mm) in inner diameter or less; and
2. Provided with a hose connection of a size or type that will prevent its use for any other service.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2460. System flushing and disinfection.**

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.<sup>P</sup>



Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-2470. Using a pump and hoses, backflow prevention.**

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2480. Protecting inlet, outlet, and hose fitting.**

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under 12VAC5-421-2440.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2490. Tank, pump, and hoses, dedication.**

A. Except as specified in subsection B of this section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.<sup>P</sup>

B. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**Article 4. Sewage, Other Liquid Waste, and Rainwater**

## 12VAC5-421-2500. Mobile holding tank capacity and drainage.

A sewage holding tank in a mobile food establishment shall be:

1. Sized 15% larger in capacity than the water supply tank; and
2. Sloped to a drain that is 1 inch (25 mm) in inner diameter or greater, equipped with a shut-off valve.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-2505. Establishment drainage system.

Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 12VAC5-421-2180 A.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-2510. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-2520. Backflow prevention.

- A. Except as specified in subsections B, C, and D of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.<sup>P</sup>
- B. Subsection A of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.
- C. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (1.5 meters) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.
- D. If allowed by law, a warewashing or culinary sink may have a direct connection.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2530. Grease trap.

If used, a grease trap shall be located to be easily accessible for cleaning.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2540. Conveying sewage.

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2550. Removing mobile food establishment wastes.

No public health hazard or nuisance shall result when sewage and other liquid wastes are removed from a mobile food establishment at an approved waste servicing area or by a permitted sewage transport vehicle.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-2560. Flushing a waste retention tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2570. Approved sewage disposal system.**

Sewage shall be disposed through an approved facility that is:

1. A public sewage treatment plant;<sup>P</sup> or
2. An individual sewage disposal system that is sized, constructed, maintained, and operated according to the State Board of Health's regulations promulgated pursuant to Chapter 6 (§ 32.1-163 et seq.) of Title 32 of the Code of Virginia, including 12VAC5-610, Sewage Handling and Disposal Regulations, 12VAC5-613, Regulations for Alternative Onsite Sewage Systems, or otherwise according to law.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-2580. Other liquid wastes and rainwater.**

Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2590. (Repealed.)**

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## Article 5. Refuse, Recyclables, and Returnables

### 12VAC5-421-2600. Outdoor storage surface.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2610. Outdoor enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2620. Receptacles.

A. Except as specified in subsection B of this section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2630. Receptacles in vending machines.

Except for a receptacle for a beverage bottle crown closures, a refuse receptacle may not be located within a vending machine.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

**12VAC5-421-2640. Outside receptacles.**

A. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

B. Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2650. Storage areas, rooms, and receptacles, capacity and availability.**

A. An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

B. A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

C. If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2660. Toilet room receptacle, covered.**

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2670. Cleaning implements and supplies.**

A. Except as specified in subsection B of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

B. If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2680. Storage areas, redeeming machines, receptacles and waste handling units, location.**

A. An area designated for refuse, recyclables, returnables, and, except as specified in subsection B of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

B. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

C. The location of receptacles and waste handling units for refuse, recyclables, and returnables shall not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-2690. Storing refuse, recyclables, and returnables.**

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2700. Areas, enclosures, and receptacles, good repair.**

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2710. Outside storage prohibitions.**

A. Except as specified in subsection B of this section, refuse receptacles not meeting the requirements specified under 12VAC5-421-2620 A such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue shall not be stored outside.

B. Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-2720. Covering receptacles.**

1. Inside the food establishment if the receptacles and units:
  - a. Contain food residue and are not in continuous use; or
  - b. After they are filled; and
2. With tight-fitting lids or doors if kept outside the food establishment.

Statutory Authority



§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-2730. Using drain plugs.**

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2740. Maintaining refuse areas and enclosures.**

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under 12VAC5-421-3300, and clean.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2750. Cleaning receptacles.**

A. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under 12VAC5-421-2540.

B. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-2760. Removal frequency.**

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2770. Receptacles or vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

1. Portable receptacles that are constructed and maintained according to law; or
2. A transport vehicle that is constructed, maintained, and operated according to law.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2780. Community or individual facility.

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## Part VI. Physical Facilities

### Article 1. Materials for Construction and Repair

#### 12VAC5-421-2790. Indoor areas; surface characteristics.

A. Except as specified in subsection B of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

1. Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;

2. Closely woven and easily cleanable carpet for carpeted areas; and
3. Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

B. In a temporary food establishment:

1. A floor may be concrete, if graded to drain, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other approved materials that are effectively treated to control dust and mud; and
2. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-2800. Outdoor areas; surface characteristics.

- A. The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.
- B. Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.
- C. Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 12VAC5-421-2600 and 12VAC5-421-2610.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## Article 2. Design, Construction, and Installation

### 12VAC5-421-2810. Floors, walls, and ceilings

Except as specified under 12VAC5-421-2840 and except for anti-slip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

12VAC5-421-2820. Floors, walls, and ceilings, utility lines.

- A. Utility service lines and pipes shall not be unnecessarily exposed.
- B. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.
- C. Exposed horizontal utility service lines and pipes shall not be installed on the floor.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

12VAC5-421-2830. Floor and wall junctures, coved, and enclosed or sealed.

- A. In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1/32 inch (1 mm). However, this subsection shall not apply to floor wall junctures in bed and breakfast operations serving 18 or fewer guests.
- B. The floors in food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 35, Issue 1, eff. October 3, 2018.

12VAC5-421-2840. Floor carpeting, restrictions and installation.

- A. A floor covering such as carpeting or similar material shall not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

B. If carpeting is installed as a floor covering in areas other than those specified under subsection A of this section, it shall be:

1. Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
2. Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-2850. Floor covering, mats and duckboards.

Mats and duckboards shall be designed to be removable and easily cleanable.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-2860. Wall and ceiling coverings and coatings.

A. Wall and ceiling covering materials shall be attached so that they are easily cleanable.

B. Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2870. Walls and ceilings, attachments.

A. Except as specified in subsection B of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

B. In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-2880. Walls and ceilings, studs, joists, and rafters.**

Studs, joists, and rafters shall not be exposed in areas subject to moisture. This requirement does not apply to temporary food establishments.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

**12VAC5-421-2890. Light bulbs, protective shielding.**

A. Except as specified in subsection B of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

B. Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

1. The integrity of the packages can not be affected by broken glass falling onto them; and
2. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

C. An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

**12VAC5-421-2900. Heating, ventilating, air conditioning system vents.**

Heating, ventilating, and air conditioning systems shall be designed and installed so that

make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2910. Insect control devices, design and installation.

A. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

B. Insect control devices shall be installed so that:

1. The devices are not located over a food preparation area; and
2. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-2920. Toilet rooms, enclosed.

Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-2930. Outer openings, protected.

A. Except as specified in subsections B through E of this section, outer openings of a food establishment shall be protected against the entry of insects and rodents by:

1. Filling or closing holes and other gaps along floors, walls and ceilings;

2. Closed, tight-fitting windows; and
3. Solid self-closing, tight-fitting doors.

B. Subsection A of this section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

C. Exterior doors used as exits need not be self-closing if they are:

1. Solid and tight-fitting;
2. Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
3. Restricted so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

D. Except as specified in subsections B and E of this section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects and rodents by:

1. 16 mesh to 1-inch (16 mesh to 25.4 mm) screens;
2. Properly designed and installed air curtains to control flying insects; or
3. Other effective means.

E. Subsection D of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

## 12VAC5-421-2940. Exterior walls and roofs, protective barrier.

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.



## 12VAC5-421-2950. Outdoor food vending areas, overhead protection.

Except for machines that vend canned beverages, if located outside, a machine used to vend food shall be provided with overhead protection.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-2960. Outdoor servicing areas, overhead protection.

Except for areas used only for the loading of water or the discharge of sewage or other liquid waste, through the use of a closed system of hoses, servicing areas shall be provided with overhead protection.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-2970. Outdoor walking and driving surfaces, graded to drain.

Exterior walking and driving surfaces shall be graded to drain.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-2980. Outdoor refuse areas, curbed and graded to drain.

Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-2990. Private homes and living or sleeping quarters, use prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters shall not be used for conducting food establishment operations.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3000. Living or sleeping quarters, separation.

Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-3010. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## Article 3. Numbers and Capacities

### 12VAC5-421-3020. Handwashing cleanser, availability.

Each handwashing sink or group of two adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3030. Hand drying provision.

Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

1. Individual, disposable towels;<sup>Pf</sup>
2. A continuous towel system that supplies the user with a clean towel;<sup>Pf</sup>
3. A heated-air hand drying device;<sup>Pf</sup> or
4. A hand drying device that employs an air-knife system that delivers high-velocity, pressurized air at ambient temperatures.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3040. Handwashing aids and devices, use restrictions.

A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, shall not be provided with the handwashing aids and devices required for a handwashing sink as specified under 12VAC5-421-3020, 12VAC5-421-3030, and 12VAC5-421-2650 C.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3045. Handwashing signage.

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia

Register Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-3050. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-3060. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## 12VAC5-421-3070. Toilet tissue, availability.

A supply of toilet tissue shall be available at each toilet.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3080. Lighting, intensity.

The light intensity shall be:

1. At least 10 foot candles (108 lux) at a distance of 30 inches (75 cm) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
2. At least 20 foot candles (215 lux):
  - a. At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
  - b. Inside equipment such as reach-in and under-counter refrigerators;
  - c. At a distance of 30 inches (75 cm) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
3. At least 50 foot candles (540 lux) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where

employee safety is a factor.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-3090. Ventilation, mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3100. Dressing areas and lockers, designation.

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3110. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-3120. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; repealed, Volume 26, Issue 7, eff. January 1, 2010.

#### Article 4. Location and Placement

##### 12VAC5-421-3130. Toilet rooms, convenience and accessibility.

Toilet rooms shall be conveniently located and accessible to employees during all hours of operation. Toilet rooms intended for use by customers shall not necessitate travel through food preparation or handling areas.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

##### 12VAC5-421-3140. Employee accommodations, designated areas.

A. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

B. Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles can not occur.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

##### 12VAC5-421-3150. Distressed merchandise, segregation and location.

Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3160. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

## Article 5. Maintenance and Operation

### 12VAC5-421-3170. Repairing.

The physical facilities shall be maintained in good repair.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3180. Cleaning, frequency and restrictions.

A. The physical facilities shall be cleaned as often as necessary to keep them clean.

B. Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-3190. Cleaning floors, dustless methods.

A. Except as specified in subsection B of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

B. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

1. Without the use of dust-arresting compounds; and
2. In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### **12VAC5-421-3200. Cleaning ventilation systems, nuisance and discharge prohibition.**

A. Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

B. If vented to the outside, ventilation systems shall not create a public health hazard or nuisance or unlawful discharge.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### **12VAC5-421-3210. Cleaning maintenance tools, preventing contamination.**

Food preparation sinks, handwashing lavatories, and warewashing equipment shall not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### **12VAC5-421-3220. Drying mops.**

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.



### 12VAC5-421-3230. Absorbent materials on floors, use limitation.

Except as specified in 12VAC5-421-3190 B, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used on floors.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-3240. Cleaning of plumbing fixtures.

Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and maintained and used as specified under 12VAC5-421-2310.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010.

### 12VAC5-421-3250. Closing toilet room doors.

Toilet room doors as specified under 12VAC5-421-2920 shall be kept closed except during cleaning and maintenance operations unless otherwise required by other regulations or law.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3260. Using dressing rooms and lockers.

A. Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

B. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3270. Controlling pests.

The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises by:

1. Routinely inspecting incoming shipments of food and supplies;
2. Routinely inspecting the premises for evidence of pests;
3. Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 12VAC5-421-3360, 12VAC5-421-3440, and 12VAC5-421-3450,<sup>Pf</sup> and
4. Eliminating harborage conditions.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3280. Removing dead or trapped birds, insects, rodents, and other pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3290. Storing maintenance tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

1. Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

12VAC5-421-3300. Maintaining premises, unnecessary items and litter.

The premises shall be free of:

1. Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
2. Litter.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

12VAC5-421-3310. Prohibiting animals.

A. Except as specified in subsections B and C of this section, live animals shall not be allowed on the premises of a food establishment.<sup>Pf</sup>

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

1. Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
2. Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
3. In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person if a health or safety hazard will not result from the presence or activities of the service animal;
4. Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, residential care facilities, and bed and breakfast operations at times other than during meals if:
  - a. Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;
  - b. Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and
  - c. Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service;

5. In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals; and

6. Dogs in outdoor dining areas if:

- a. The outdoor dining area is not fully enclosed with floor to ceiling walls and is not considered a part of the interior physical facility;
- b. The outdoor dining area is equipped with an entrance that is separate from the main entrance to the food establishment and the separate entrance serves as the sole means of entry for patrons accompanied by dogs;
- c. A sign stating that dogs are allowed in the outdoor dining area is posted at each entrance to the outdoor dining area in such a manner as to be clearly observable by the public;
- d. A sign within the outdoor dining area stating the requirements as specified in subdivisions 6 e, 6 f, and 6 g of this subsection is provided in such a manner as to be clearly observable by the public;
- e. Food and water provided to dogs is served using equipment that is not used for service of food to persons or is served in single-use articles;
- f. Dogs are not allowed on chairs, seats, benches, or tables;
- g. Dogs are kept on a leash or within a pet carrier and under the control of an adult at all times; and
- h. Establishment provides effective means for cleaning up dog vomitus and fecal matter.

C. Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 35, Issue 1, eff. October 3, 2018; Volume 37, Issue 18, eff. June 10, 2021.

## Part VII. Poisonous or Toxic Materials

### Article 1. Labeling and Identification

12VAC5-421-3320. Original containers - identifying information, prominence.

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-3330. Working containers - common name.**

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.<sup>Pf</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## **Article 2. Operational Supplies and Applications**

**12VAC5-421-3340. Storage, separation.**

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning;<sup>P</sup> and
2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This subsection does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-3350. Presence and use restriction.**

A. Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.  
Pf

B. Subsection A of this section does not apply to packaged poisonous or toxic materials that are for retail sale.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3360. Conditions of use.

Poisonous or toxic materials shall be:

1. Used according to:

- a. Law and this chapter;
- b. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment;  
P
- c. The conditions of certification, if certification is required, for use of the pest control materials;<sup>P</sup> and
- d. Additional conditions that may be established by the department; and

2. Applied so that:

- a. A hazard to employees or other persons is not constituted;<sup>P</sup> and
- b. Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide this is achieved by:<sup>P</sup>
  - (1) Removing the items;<sup>P</sup>
  - (2) Covering the items with impermeable covers;<sup>P</sup> or
  - (3) Taking other appropriate preventive actions;<sup>P</sup> and
  - (4) Cleaning and sanitizing equipment and utensils after the application.<sup>P</sup>

A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC § 136(e) (Federal Insecticide, Fungicide and Rodenticide Act), or a person under the direct supervision of a certified applicator.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3370. Poisonous or toxic material containers.

A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3380. Sanitizers, criteria.

Chemical sanitizers, including chemical sanitizing solutions generated on site, and other chemical antimicrobials applied to food-contact surfaces shall:

1. Meet the requirements specified in 40 CFR 180.940,<sup>P</sup> or
2. Meet the requirements as specified in 40 CFR 180.2020.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3390. Chemicals for washing, treatment, storage, and processing fruits and vegetables, criteria.

Chemicals, including those generated on site, used to wash or peel raw, whole fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables shall:

1. Be an approved food additive listed for this intended use in 21 CFR Part 173;<sup>P</sup> or
2. Be generally recognized as safe (GRAS) for this intended use;<sup>P</sup> or
3. Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification);<sup>P</sup> and

#### 4. Meet the requirements in 40 CFR Part 156.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

#### 12VAC5-421-3400. Boiler water additives, criteria.

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

#### 12VAC5-421-3410. Drying agents, criteria.

Drying agents used in conjunction with sanitization shall:

1. Contain only components that are listed as one of the following:
  - a. Generally recognized as safe (GRAS) for use in food as specified in 21 CFR Part 182 or 21 CFR Part 184,<sup>P</sup>
  - b. GRAS for the intended use as specified in 21 CFR Part 186,<sup>P</sup>
  - c. GRAS for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR 170.30,<sup>P</sup>
  - d. Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) § 409(h),<sup>P</sup>
  - e. Approved for use as a drying agent under a prior sanction specified in 21 CFR Part 181 as specified in the Federal Food Drug and Cosmetic Act (FFDCA) § 201(s)(4),<sup>P</sup>
  - f. Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 174 through 178,<sup>P</sup> or
  - g. Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39,<sup>P</sup> and

2. When sanitization is with chemicals, the approval required under subdivision 1 e or g of this section or the regulation as an indirect food additive required under subdivision 1 f of



this section, shall be specifically for use with chemical sanitizing solutions.<sup>P</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-3420. Lubricants - incidental food contact, criteria.**

Lubricants shall meet the requirements specified in 21 CFR 178.3570 if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-3430. Restricted use pesticides, criteria.**

Restricted use pesticides specified under subdivision 3 of 12VAC5-421-3360 shall meet the requirements specified in 40 CFR Part 152, Subpart I.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-3440. Rodent bait stations.**

Rodent bait shall be contained in a covered, tamper-resistant bait station.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3450. Tracking powders, pest control, and monitoring.

A. Except as specified in subsection B of this section, a tracking powder pesticide shall not be used in a food establishment.<sup>P</sup>

B. If used, a nontoxic tracking powder such as talcum or flour shall not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3460. Medicines - restriction and storage.

A. Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment.<sup>Pf</sup>

B. Medicines that are in a food establishment for the employees' use shall be labeled as specified under 12VAC5-421-3320 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3470. Refrigerated medicines, storage.

Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

1. Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines;<sup>P</sup> and
2. Located so they are inaccessible to children.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3480. First aid supplies, storage.

First aid supplies that are in a food establishment for the employees' use shall be:

1. Labeled as specified under 12VAC5-421-3320;<sup>Pf</sup> and
2. Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3490. Other personal care items, storage.

Except as specified under 12VAC5-421-3470 and 12VAC5-421-3480, employees shall store their personal care items in facilities as specified under 12VAC5-421-3100 B.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## Article 3. Stock and Retail Sale

### 12VAC5-421-3500. Storage and display, separation.

Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning;<sup>P</sup> and
2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.<sup>P</sup>

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## Part VIII. Compliance and Enforcement

## Article 1. Applicability of Chapter

### 12VAC5-421-3510. Public health protection.

A. The department shall apply this chapter to promote its underlying purpose, as specified in 12VAC5-421-30, of safeguarding public health and ensuring that food is safe, unadulterated and honestly presented when offered to the consumer.

B. In enforcing the provisions of this regulation, the department shall assess existing facilities or equipment that were in use before June 10, 2021, based on the following considerations:

1. Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
2. Whether food-contact surfaces comply with 12VAC5-421-960 through 12VAC5-421-1060; and
3. Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 12VAC5-421-1450.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3520. Preventing health hazards, provision for conditions not addressed.

A. If necessary to protect against public health hazards or nuisances, the department may impose specific requirements in addition to the requirements contained in this regulation that are authorized by law.

B. The department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the department's file for the food establishment.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3530. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the procedures for rendering all case decisions, as defined in § 2.2-4001, and for issuing all orders and regulations promulgated pursuant to the authority of Title 35.1.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## 12VAC5-421-3540. [Reserved].

Statutory Authority

Historical Notes

## 12VAC5-421-3550. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3560. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 35, Issue 1, eff. October 3, 2018; repealed, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3570. Variances.

A. The commissioner or his designee may grant a variance to this chapter by following the appropriate procedures set forth in this section and 12VAC5-421-3580.

B. The commissioner or the commissioner's designee may grant a variance if he finds that the hardship imposed, which may be economic, outweighs the benefits that may be received by the public and that granting such a variance does not subject the public to unreasonable health risks or environmental pollution.

C. Any owner or permit holder who seeks a variance shall apply in writing. The request shall be sent to the local health department. The application shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Any relevant analytical results including result of relevant tests conducted pursuant to the requirements of these regulations;
4. Statements or evidence which establishes that the public health, welfare and environment would not be adversely affected if the variance were granted;
5. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
6. A HACCP plan if required as specified under 12VAC5-421-3620 A that includes the information specified under 12VAC5-421-3630 as it is relevant to the variance requested.
7. Other information believed pertinent by the applicant; and
8. Such other information as the district or local health department or commissioner may require.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

#### 12VAC5-421-3580. Evaluation of a variance application.

A. The commissioner shall act on any variance request submitted pursuant to 12VAC5-421-3570 C within 60 days of receipt of the request.

B. In evaluating a variance application, the commissioner shall consider such factors as the following:

1. The effect that such a variance would have on the operation of the food establishment.
2. The cost and other economic considerations imposed by this requirement;
3. The effect that such a variance would have on protection of the public health, safety, welfare and the environment;
4. Such other factors as the commissioner, deputy commissioner, or director of the office of environmental health services may deem appropriate.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3590. Disposition of a variance request.

A. If the commissioner proposes to deny the variance he shall provide the owner an opportunity to an informal fact-finding conference as provided in § 2.2-4019 of the Code of Virginia. Following this opportunity for an informal fact-finding conference the commissioner may reject any application for a variance by sending a rejection notice to the applicant. The rejection notice shall be in writing and shall state the reasons for the rejection.

B. If the commissioner proposes to grant a variance request submitted pursuant to this part, the applicant shall be notified in writing of this decision. Such notice shall identify the variance, the food establishment involved, and shall specify the period of time for which the variance will be effective. Such notice shall provide that the variance will be terminated when the food establishment comes into compliance with the applicable regulation and may be terminated upon a finding by the commissioner that the food establishment has failed to comply with any requirements or schedules issued in conjunction with the variance. The effective date of the variance shall be as noted in the variance letter.

C. All variances granted to any food establishment may not be transferable unless otherwise stated. Each variance shall be attached to the permit to operate and posted prominently in a conspicuous place for public view.

D. No owner or permit holder may challenge the terms or conditions of a variance after 30 calendar days have elapsed from the receipt of the variance.

E. Each variance is revoked when the permit to operate is revoked, suspended, or expired.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

### 12VAC5-421-3595. Conformance with approved procedures.

If the commissioner or the commissioner's designee grants a variance as specified in 12VAC5-421-3570, or a HACCP plan is otherwise required as specified under 12VAC5-421-3620, the permit holder shall:

1. Comply with the HACCP plans and procedures that are submitted as specified under 12VAC5-421-3630 and approved as a basis for the variance;<sup>P</sup> and
2. Maintain and provide to the department, upon request, records specified under subdivisions 4 and 5 c of 12VAC5-421-3630 that demonstrate that the following are routinely employed:

- a. Procedures for monitoring the critical control points;<sup>PF</sup>
- b. Monitoring of the critical control points;<sup>PF</sup>
- c. Verification of the effectiveness of the operation or process;<sup>PF</sup> and
- d. Necessary corrective actions if there is failure at the critical control point.<sup>PF</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## Article 2. Plan Submission and Approval

### 12VAC5-421-3600. Facility and operating plans.

A permit applicant or permit holder shall submit to the department properly prepared plans and specifications for review and approval before:

1. The construction of a food establishment;<sup>Pf</sup>
2. The conversion of an existing structure for use as a food establishment;<sup>Pf</sup> or
3. The remodeling of a food establishment or a change of type of food establishment or food operation as specified under subdivision 3 of 12VAC5-421-3700 if the department determines that plans and specifications are necessary to ensure compliance with this chapter.<sup>Pf</sup>

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3610. Contents of the plans and specifications.

The plans and specifications for a food establishment, including a food establishment specified under 12VAC5-421-3620, shall include, as required by the department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with the provisions of this chapter:

1. Intended menu;
2. Anticipated volume of food to be stored, prepared, and sold or served;
3. Proposed layout, mechanical schematics, construction materials, and finish schedules;



4. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
5. Evidence that standard procedures ensuring compliance with the requirements of this chapter are developed or are being developed; and
6. Other information that may be required by the department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3620. When a HACCP plan is required.

A. Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the department for approval a properly prepared HACCP plan as specified under 12VAC5-421-3630 and the relevant provisions of this chapter if:

1. Submission of a HACCP plan is required according to law;
2. A variance is required as specified under 12VAC5-421-700 D 4, 12VAC5-421-860, or 12VAC5-421-1300 B; or
3. The department determines that a food preparation or processing method requires a variance based on a plan submittal specified under 12VAC5-421-3610, an inspectional finding, or a variance request.

B. Before engaging in reduced oxygen packaging without a variance as specified under 12VAC5-421-870, a permit applicant or permit holder shall submit a properly prepared HACCP plan to the department.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3630. Contents of a HACCP plan.

For a food establishment that is required under 12VAC5-421-3620 to have a HACCP plan, the permit applicant or permit holder shall submit to the department a properly prepared HACCP

plan that includes:

1. General information such as the name of the permit applicant or permit holder, the food establishment address, and contact information;
2. A categorization of the types of time/temperature control for safety food that is to be controlled under the HACCP plan;<sup>Pf</sup>
3. A flow diagram or chart for each specific food or category type that identifies:
  - a. Each step in the process;<sup>Pf</sup>
  - b. The hazards and controls for each step in the flow diagram or chart;<sup>Pf</sup>
  - c. The steps that are critical control points;<sup>Pf</sup>
  - d. The ingredients, materials, and equipment used in the preparation of that food,<sup>Pf</sup> and
  - e. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.<sup>Pf</sup>
4. A critical control points summary for each specific food or category type that clearly identifies:
  - a. Each critical control point;<sup>Pf</sup>
  - b. The critical limits for each critical control point;<sup>Pf</sup>
  - c. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;<sup>Pf</sup>
  - d. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;<sup>Pf</sup>
  - e. Action to be taken by the person in charge if the critical limits for each critical control point are not met;<sup>Pf</sup> and
  - f. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed;<sup>Pf</sup>
5. Supporting documents such as:
  - a. Food employee and supervisory training plan addressing food safety issues;<sup>Pf</sup>
  - b. Copies of blank records forms that are necessary to implement the HACCP plan;<sup>Pf</sup>
  - c. Additional scientific data or other information, as required by the department supporting the determination that food safety is not compromised by the proposal;<sup>Pf</sup> and
6. Any other information required by the department.

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3640. Confidentiality -- trade secrets.

The department shall treat as confidential in accordance with law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under 12VAC5-421-3610 and 12VAC5-421-3630.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3650. Preoperational inspections.

The department shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified under subdivision 5 of 12VAC5-421-3610 and is in compliance with law and this chapter.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## Article 3. Permit to Operate

### 12VAC5-421-3660. Permits.

A. No person shall own, establish, conduct, maintain, manage, or operate any food establishment in this Commonwealth unless the food establishment is permitted as provided in this section. All permits shall be in the name of the owner. Permits shall not be issued to newly constructed or extensively remodeled food establishments until a certificate of occupancy has been issued by the Building Official. Only a person who complies with the requirements of this part shall be entitled to receive or retain such a permit.

B. Permits issued shall not be transferable from one person to another or from one location to

another. A new owner shall be required to make a written application for a permit. The application forms are obtainable at all local health departments.

C. Any person operating a food establishment with a valid permit who desires to expand or modify the establishment, shall notify the local health department in the jurisdiction where the food establishment is located, and the local health department shall determine whether such expansion, modification, or reclassification is in compliance with the applicable sections of this chapter.

D. The permit shall be posted in every food establishment in a place where it is readily observable by the public transacting business with the establishment.

E. Permits shall expire annually otherwise not to exceed 12 months from the date of issuance.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-3670. Application procedure, submission before proposed opening.**

A. An applicant seeking to operate a nontemporary food establishment shall submit an application for a permit at least 30 calendar days before the date planned for opening a food establishment or at least 30 calendar days before the expiration date of the current permit for an existing facility.

B. An applicant seeking to operate a temporary food establishment shall submit an application for a permit at least 10 calendar days before the date planned for opening the temporary food establishment.

C. Any applicant who fails to complete the application process within 12 months of receipt of the application by the local health department's office may be required to submit a new application and plan.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-3680. Form of submission.**

A person desiring to operate a food establishment shall submit to the department a written application for a permit on a form provided by the department.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3690. Qualifications and responsibilities of applicants.

To qualify for a permit, an applicant shall:

1. Be an owner of the food establishment or an officer of the legal ownership;
2. Comply with the requirements of this chapter; and
3. As specified under 12VAC5-421-3820, agree to allow access to the food establishment and to provide required information.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3700. Contents of the application.

The application shall include:

1. The name, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;
2. Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity;
3. A statement specifying whether the food establishment:
  - a. Is mobile or stationary, and temporary or permanent; and
  - b. Is an operation that includes one or more of the following:
    - (1) Prepares, offers for sale, or serves time/temperature control for safety food:
      - (a) Only to order upon a consumer's request;
      - (b) In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency; or
      - (c) Using time as the public health control as specified under 12VAC5-421-850;
    - (2) Prepares time/temperature control for safety food in advance using a food

preparation method that involves two or more steps which may include combining time/temperature control for safety food ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;

(3) Prepares food as specified under subdivision 3 b (2) of this section for delivery to and consumption at a location off the premises of the food establishment where it is prepared;

(4) Prepares food as specified under subdivision 3 b (2) of this section for service to a highly susceptible population;

(5) Prepares only food that is not time/temperature control for safety food; or

(6) Does not prepare, but offers for sale only prepackaged food that is not time/temperature control for safety food;

4. The name, title, address, and telephone number of the person directly responsible for the food establishment;

5. The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under subdivision 4 of this section such as the zone, district, or regional supervisor;

6. The names, titles, and addresses of:

a. The persons comprising the legal ownership as specified under subdivision 2 of this section including the owners and officers; and

b. The local resident agent if one is required based on the type of legal ownership;

7. A statement signed by the applicant that:

a. Attests to the accuracy of the information provided in the application; and

b. Affirms that the applicant will:

(1) Comply with this chapter; and

(2) Allow the department access to the establishment as specified under 12VAC5-421-3820 and to the records specified under 12VAC5-421-440 and 12VAC5-421-2330 and subdivision 4 of 12VAC5-421-3630; and

8. Other information required by the department.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3710. New, converted, or remodeled establishments.

For food establishments that are required to submit plans as specified under 12VAC5-421-3600 the department shall issue a permit to the applicant after:

1. A properly completed application is submitted;
2. Any required fee is submitted;
3. The required plans, specifications, and information are reviewed and approved; and
4. A preoperational inspection as specified in 12VAC5-421-3650 shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this chapter.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3720. Existing establishments, permit renewal, change of ownership, or termination.

A. The department may renew a permit for an existing food establishment or may issue a permit to a new owner of an existing food establishment after a properly completed application is submitted, reviewed, and approved, any fees are paid, and an inspection shows that the establishment is in compliance with this chapter.

B. An existing food establishment shall notify the department in writing of a change of legal ownership or when business operations have terminated. Such notice shall be submitted in writing to the department at least 30 days prior to the legal ownership transfer or termination of business operation.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3730. Denial of application for permit, notice.

If an application for a permit to operate is denied, the department shall provide the applicant with a notice that includes:

1. The specific reasons and chapter citations for the permit denial;

2. The actions, if any, that the applicant must take to qualify for a permit; and
3. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3740. Responsibilities of the department.

- A. At the time a permit is first issued, the department shall provide to the permit holder a copy (or opportunity to obtain a copy) of this chapter so that the permit holder is notified of the compliance requirements and the conditions of retention, as specified under 12VAC5-421-3750, that are applicable to the permit.
- B. Failure to provide the information specified in subsection A of this section does not prevent the department from taking authorized action or seeking remedies if the permit holder fails to comply with this chapter or an order, warning, or directive of the department.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3750. Responsibilities of the permit holder.

In order to retain a permit issued by the department, the permit holder shall:

1. Post the permit in a location in the food establishment that is conspicuous to consumers;
2. Comply with the provisions of this chapter including the conditions of a granted variance as specified under 12VAC5-421-3590 and 12VAC5-421-3595, and approved plans as specified under 12VAC5-421-3610;
3. If a food establishment is required under 12VAC5-421-3620 to operate under a HACCP plan, comply with the plan as specified under 12VAC5-421-3595;
4. Immediately contact the department to report an illness of a food employee or conditional employee as specified under 12VAC5-421-80 B;
5. Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified under 12VAC5-421-3910;



6. Allow representatives of the department access to the food establishment as specified under 12VAC5-421-3820;
7. Replace existing facilities and equipment specified in 12VAC5-421-3510 with facilities and equipment that comply with this chapter if:
  - a. The department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;
  - b. The department directs the replacement of the facilities and equipment because of a change of ownership; or
  - c. The facilities and equipment are replaced in the normal course of operation;
8. Comply with directives of the department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the permit holder's food establishment or in response to community emergencies;
9. Accept notices issued and served by the department according to law; and
10. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter or a directive of the department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.
11. Notify customers that a copy of the most recent establishment inspection report is available upon request by:
  - a. Posting a sign or placard in a location in the food establishment that is conspicuous to customers; or
  - b. By another method acceptable to the department.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3760. Permits not transferable.

A permit shall not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application as specified under 12VAC5-421-3700 and the change in operation is not approved.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007.

### 12VAC5-421-3770. Summary suspension of a permit.

The director may summarily suspend a permit to operate a food establishment if the director finds the continued operation constitutes a substantial and imminent threat to the public health. Upon receipt of such notice that a permit is suspended, the permit holder shall cease food operations immediately and begin corrective action.

Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing by mail or by hand delivery. Upon receipt of notice that the permit is immediately suspended, the former permit holder shall be given an opportunity for an informal fact-finding conference in accordance with § 2.2-4019 of the Code of Virginia. The request for an informal fact-finding conference shall be in writing. The written request shall be filed with the local department by the former holder of the permit. If written request for an informal fact-finding conference is not filed within 10 working days, the suspension is sustained. Each holder of a suspended permit shall be afforded an opportunity for an informal fact-finding conference, within three working days of receipt of a request for the informal fact-finding conference. The director may end the suspension at any time if the reasons for the suspension no longer exist.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3780. Revocation of a permit.

The director may, after conducting an informal fact-finding conference in accordance with § 2.2-4019 of the Code of Virginia, revoke a permit for violation of any of the requirements of this part.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3790. Application after revocation.

Any person whose permit has been revoked, may apply for a new permit by following the procedures of this part outlined in 12VAC5-421-3670 through 12VAC5-421-3700.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

## Article 4. Inspection and Correction of Violations

### 12VAC5-421-3800. Periodic inspection.

Food establishments shall be inspected by the department. Inspections of the food establishments shall be performed as often as necessary for the enforcement of this chapter in accordance with the following:

1. Except as specified in subdivisions 2 and 3 of this section, the department shall inspect a food establishment at least once every six months.
2. The department may increase the interval between inspections beyond six months if:
  - a. The food establishment is fully operating under an approved and validated HACCP plan as specified under 12VAC5-421-3595 and 12VAC5-421-3630;
  - b. The food establishment is assigned a less frequent inspection frequency based on an established risk-based inspection schedule uniformly applied throughout the Commonwealth and updated annually upon reissuance of the annual permit; or
  - c. The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not time/temperature control for safety food, such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.
3. The department shall inspect a temporary food establishment during its permit period, unless the department develops a written risk-based plan for adjusting the frequency of inspections of temporary food establishments that is uniformly applied throughout the Commonwealth.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3810. Performance-based and risk-based inspections.

Within the parameters specified in 12VAC5-421-3800, the department shall prioritize the conducting of more frequent inspections based upon its assessment of a food establishment's history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:

1. Past performance for nonconformance with this chapter or HACCP plan requirements that are priority items or priority foundation items;
2. Past performance for numerous or repeat violations of this chapter or HACCP plan requirements that are core items;
3. Past performance for complaints investigated and found to be valid;
4. The hazards associated with the particular foods that are prepared, stored, or served;
5. The type of operation including the methods and extent of food storage, preparation, and service;
6. The number of people served; and
7. Whether the population served is a highly susceptible population.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3815. Competency of environmental health specialists.

A. An authorized representative of the commissioner who inspects a food establishment or conducts plan review for compliance with this chapter shall have the knowledge, skills, and ability to adequately perform the required duties. For the purposes of this section, competency shall be demonstrated when an environmental health specialist meets the training and standardization requirements as determined by the department.

B. The department shall ensure that authorized representatives who inspect a food establishment or conduct plan review for compliance with this chapter have access to training and continuing education as needed to properly identify violations and apply this chapter.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia

Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3820. Access allowed at reasonable times after due notice.

After the department presents official credentials and provides notice of the purpose of and an intent to conduct an inspection, the person in charge shall allow the department to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3830. Refusal, notification of right to access, and final request for access.

If a person denies access to the department, the department shall:

1. Inform the person that:

- a. The permit holder is required to allow access to the department as specified under 12VAC5-421-3820,
- b. Access is a condition of the acceptance and retention of a food establishment permit to operate as specified under subdivision 6 of 12VAC5-421-3750, and
- c. If access is denied, the commissioner or his designee may apply to an appropriate circuit court for an inspection warrant authorizing such inspection, testing, or taking samples for testing as provided in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2 of the Code of Virginia; and

2. Make a final request for access.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3840. Refusal, reporting.

If after the department presents credentials and provides notice as specified under 12VAC5-

421-3820, explains the authority upon which access is requested, and makes a final request for access as specified in 12VAC5-421-3830, the person in charge continues to refuse access, the department shall provide details of the denial of access on an inspection report form.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3850. Inspection warrants.

If denied access to a food establishment for an authorized purpose and after complying with 12VAC5-421-3830, the commissioner or his designee may apply to an appropriate circuit court for an inspection warrant authorizing such inspection, testing, or taking samples for testing as provided in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2 of the Code of Virginia.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-3860. Documenting information and observations.

The department shall document on an inspection report form:

1. Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 12VAC5-421-3700, inspection date, and other information such as type of water supply and sewage disposal, status of the permit, and personnel certificates that may be required; and
2. Specific factual observations of violative conditions or other deviations from this chapter that require correction by the permit holder including:
  - a. Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this chapter specified under 12VAC5-421-60;
  - b. Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under 12VAC5-421-80 B and D;
  - c. Nonconformance with priority, priority foundation, or core items of this chapter;
  - d. Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 12VAC5-421-

60;

e. Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under subdivision 4 f of 12VAC5-421-3630; and

f. Nonconformance with critical limits of a HACCP plan.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-3870. Specifying time frame for corrections.**

The department shall specify on the inspection report form the time frame for correction of the violations as specified under 12VAC5-421-3910, 12VAC5-421-3930, and 12VAC5-421-3950.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-3880. Issuing report and obtaining acknowledgment of receipt.**

At the conclusion of the inspection and according to law, the department shall provide a copy of the completed inspection report and the notice to correct violations to the permit holder or to the person in charge, and request a signed acknowledgment of receipt.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-3890. Refusal to sign acknowledgment.**

The department shall:

1. Inform a person who declines to sign an acknowledgment of receipt of inspectional

findings as specified in 12VAC5-421-3880 that:

- a. An acknowledgment of receipt is not an agreement with findings,
  - b. Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified, and
  - c. A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the department's historical record for the food establishment; and
2. Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3900. Public records.

Except as specified in 12VAC5-421-3640, the department shall treat the inspection report as a public record and shall make it available for disclosure to a person who requests it as provided in law.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3910. Imminent health hazard, ceasing operations and reporting.

A. Except as specified in subsections B and C of this section, a permit holder shall immediately discontinue operations and notify the department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.<sup>P</sup>

B. A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

C. Considering the nature of the potential hazard involved and the complexity of the



corrective action needed, the department may agree to continuing operations in the event of an extended interruption of electrical or water service if:

1. A written emergency operating plan has been approved by the department;
2. Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and
3. The department is informed upon implementation of the written emergency operating plan.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3920. Resumption of operations.

If operations are discontinued as specified under 12VAC5-421-3910 or otherwise according to law, the permit holder shall obtain approval from the department before resuming operations.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3930. Timely correction.

A. Except as specified in subsection B of this section, a permit holder shall at the time of inspection correct a priority item or priority foundation item in this chapter and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.  
Pf

B. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the department may agree to or specify a longer timeframe, not to exceed:

1. 72 hours after the inspection for the permit holder to correct priority items; or
2. 10 calendar days after the inspection for the permit holder to correct priority foundation items or HACCP plan deviations.

C. In the case of temporary food establishments, priority items shall be corrected within a

maximum of 24 hours after inspection.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

#### 12VAC5-421-3940. Verification and documentation of correction.

A. After observing at the time of inspection a correction of a priority item, priority foundation item, or a HACCP plan deviation, the department shall enter the observation and information about the corrective action on the inspection report.

B. As specified under 12VAC5-421-3930 B, after receiving notification that the permit holder has corrected a priority item, priority foundation item, or a HACCP plan deviation, or at the end of the specified period of time, the department shall verify correction, document the information on an inspection report, and enter the report in the department records.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

#### 12VAC5-421-3950. Core item, timeframe for correction.

A. Except as specified in subsection B of this section, the permit holder shall correct core items by a date and time agreed to or specified by the department but no later than 90 calendar days after the inspection.

B. The department may approve a compliance schedule that extends beyond the time limits specified under subsection A of this section if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

#### 12VAC5-421-3960. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; repealed, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-3961. Hold order, justifying conditions, and removal of food.

Upon written notice to the owner, permit holder, or person in charge, the department may place a hold order on food that:

1. Originated from an unapproved source;
2. May be unsafe, adulterated, or not honestly presented; or
3. Is not otherwise in compliance with this chapter.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

12VAC5-421-3962. Hold order, contents.

The hold order notice shall:

1. State food subject to the order may not be used, sold, moved from the food establishment, or destroyed without a written release of the order from the department;
2. State the specific reasons for placing the food under the hold order with reference to the applicable provisions of this chapter and the hazard or adverse effect created by the observed condition;
3. Sufficiently identify the food subject to the hold order by the common name, the label information, a container description, quantity, department's tag or identification information, and location; and
4. Notify the permit holder of the right to request an informal fact-finding conference pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) within 10 calendar days of receipt of the hold order notice. Otherwise, the food under the hold order shall be destroyed by the owner, permit holder, or the person in charge.

Statutory Authority

§§35.1.11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3963. Hold order, official tagging of food.

A. The department shall securely place an official tag or label on the food or containers or otherwise conspicuously identify food subject to the hold order.

B. The tag or label used to identify a food subject to a hold order shall include a summary of the provisions specified in 12VAC5-421-3962 and shall be signed and dated by the department.

C. Only the department may remove hold order tags, labels, or other identification from food subject to a hold order.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3964. Hold order, food may not be used or moved.

A. Except as specified in subsection B of this section, food placed under a hold order may not be used, sold, served, or moved from the food establishment.

B. The department may allow the permit holder to store the food in an area of the food establishment if the food is protected from subsequent deterioration.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-3965. Appeals, releasing hold order.

A. Any appeal of a hold order must be made in writing and received by the department within 10 calendar days of receipt of the hold order.

B. The department shall issue a notice of release from a hold order and shall remove hold tags, labels, or other identification from the food if the hold order is lifted.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3966. Destroying or denaturing food.

The department may order the permit holder to bring food under a hold order into compliance with this chapter or to destroy or denature food if:

1. Following an informal fact-finding conference held pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) the director affirms the hold order; or
2. The permit holder fails to file an appeal within 10 calendar days of receipt of the hold order notice.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3970. Enforcement of regulation.

A. The department is responsible for the implementation and enforcement of this chapter.

B Pursuant to the authority granted in §§ 32.1-26 and 35.1-6 of the Code of Virginia, the commissioner may issue orders to require any owner or permit holder or other person to comply with the provisions of this chapter. The order may require the following:

1. The immediate cessation and correction of the violation;
2. Appropriate remedial action to ensure that the violation does not continue or recur;
3. The submission of a plan to prevent future violations;
4. The submission of an application for a variance; and
5. Any other corrective action deemed necessary for proper compliance with the regulations.

C. The commissioner may act as the agent of the board to enforce all effective orders and this chapter. Should any owner or permit holder fail to comply with any effective order or this chapter, the commissioner may:

1. Institute a proceeding to revoke the owner's or permit holder's permit in accordance with 12VAC5-421-3780;
2. Request the attorney for the Commonwealth to bring a criminal action;
3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or
4. Do any combination of the above.

D. Nothing contained in this section shall be interpreted to require the commissioner to issue

an order prior to seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.

E. Proceedings before the commissioner or his designee shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved.

1. Informal fact-finding conferences. An informal fact-finding conference is a meeting with a district or local health department with the director presiding and held in conformance with § 2.2-4019 of the Code of Virginia.

2. Adjudicatory hearing. The adjudicatory hearing is a formal, public adjudicatory proceeding before a hearing officer as defined by § 2.2-4001 of the Code of Virginia, and held in conformance with § 2.2-4020 of the Code of Virginia.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016; Volume 37, Issue 18, eff. June 10, 2021.

## 12VAC5-421-3980. Request for informal fact-finding conference.

A request for an informal fact-finding conference shall be made by sending the request in writing to the district or local health department in the locality where the food establishment is located. Requests for an informal fact-finding conference shall cite the reason or reasons for the request and shall cite the section or sections of this chapter involved and must be received within 30 days of the decision by the department that lead to the request.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-3990. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 32, Issue 22, eff. July 12, 2016.

## 12VAC5-421-4000. Appeals.

A. Any appeal from a denial of a permit to operate a food establishment must be made in writing and received by the department within 30 days after service of the denial.

B. Pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) an aggrieved owner or permit holder may appeal a final case decision of the commissioner to an appropriate circuit court.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 32, Issue 22, eff. July 12, 2016.

**12VAC5-421-4010. (Repealed.)**

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; repealed, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-4020. Compliance with the Uniform Statewide Building Code.**

All buildings or structures utilized as food establishments constructed prior to the effective date of the Virginia Uniform Statewide Building Code shall be maintained in conformance with the Virginia Fire Safety Law or other code in effect at the time of construction.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-4030. Local ordinance superseded; exception.**

The regulations of the board shall supersede all local ordinances regulating restaurants other than those adopted pursuant to the provisions of § 35.1-26 of the Code of Virginia, except that any locality may adopt ordinances regarding the sale, preparation, and handling of food provided such ordinances are equivalent to, or more stringent in regard to public health than, the applicable provisions of Title 35.1 and the regulations of the board. Where local ordinances prevail, local permits may be issued as required by the local ordinances. However, this does not preclude the requirement to issue a department permit before providing food services for the public.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002.

### 12VAC5-421-4035. (Repealed.)

Statutory Authority

Historical Notes

Derived from Virginia Register Volume 24, Issue 2, eff. October 16, 2007; amended, Virginia Register Volume 35, Issue 1, eff. October 3, 2018; repealed, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-4040. Investigation and control, obtaining information: personal history of illness, medical examination, and specimen analysis.

The department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

1. Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and
2. Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 26, Issue 7, eff. January 1, 2010; Volume 37, Issue 18, eff. June 10, 2021.

### 12VAC5-421-4050. Restriction or exclusion of food employee, or summary suspension of permit.

Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the department may issue an order to the suspected food employee, conditional employee, or permit holder instituting one or more of the following control measures:

1. Restricting the food employee or conditional employee;
2. Excluding the food employee or conditional employee; or



3. Closing the food establishment by summarily suspending a permit to operate in accordance with law.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010; Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-4060. Restriction or exclusion order: warning or hearing not required, information required in order.**

Based on the findings of the investigation as specified in 12VAC5-421-4040 and to control disease transmission, the department may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing if the order:

1. States the reasons for the restriction or exclusion that is ordered;
2. States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
3. States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request as provided in law; and
4. Provides the name and address of the department representative to whom a request for an appeal hearing may be made.

Statutory Authority

§§35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 37, Issue 18, eff. June 10, 2021.

**12VAC5-421-4070. Release of food employee from restriction or exclusion.**

The regulatory authority shall release a food employee, or conditional employee from restriction or exclusion according to law and the conditions specified under 12VAC5-421-100.

Statutory Authority

§§ 35.1-11 and 35.1-14 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 18, Issue 10, eff. March 1, 2002; amended, Virginia Register Volume 24, Issue 2, eff. October 16, 2007; Volume 26, Issue 7, eff. January 1, 2010.

FORMS (12VAC5-421).

[Food Establishment Inspection Report Form - Cover Page \(rev. 1/2019\)](#)

[Food Establishment Inspection Report Form - Narrative \(rev. 2/2020\)](#)

[Food Establishment Inspection Report Form - Narrative with Temperatures \(rev. 9/2017\)](#)

Statutory Authority

Historical Notes

Documents Incorporated by Reference (12VAC5-421).

[Approved Drug Products with Therapeutic Equivalence Evaluations, 40th Edition, 2020, U.S. Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Office of Pharmaceutical Science, Office of General Drugs](#)

[Grade "A" Pasteurized Milk Ordinance, 2017 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch \(HFS-626\), 5100 Paint Branch Parkway, College Park, MD 20740-3835](#)

[Interstate Certified Shellfish Shippers List \(updated monthly\), published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood \(HFS-417\), 5100 Paint Branch Parkway, College Park, MD 20740-3835](#)

[National Shellfish Sanitation Program \(NSSP\) Guide for the Control of Molluscan Shellfish, 2013 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood \(HFS-417\), 5100 Paint Branch Parkway, College Park, MD 20740-3835](#)

[NSF/ANSI 18-2012 Manual Food and Beverage Dispensing Equipment, 2012, NSF International, 789 North Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, \[www.nsf.org\]\(http://www.nsf.org\)](#)

[Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, Conference for Food Protection, 30 Elliott Court, Martinsville, IN 46151-1331](#)

[United States Standards, Grades, and Weight Classes for Shell Eggs, AMS-56, effective July 20, 2000, U.S. Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Avenue, SW, Washington, DC 20250-0259](#)

[VDH Procedures for Certification and Standardization of Food Inspection Staff, 2017, Virginia Department of Health, Division of Food and Environmental Services, 109 Governor Street, 5th Floor, Richmond, VA 23219](#)

Statutory Authority

## Historical Notes