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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8 VAC20-290
VAC Chapter title(s)	Regulations Governing School Lunch Sale of Food Items
Date this document prepared	August 28, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Board" means Virginia Board of Education.

"VDOE" means Virginia Department of Education.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The general regulatory authority for the State Board of Education is found in § 22.1-16 of the Code of Virginia, which authorizes the State Board of Education to "adopt bylaws for its own government and

promulgate such regulations as may be necessary to carry out its powers and duties and the provisions” of title 22.1 of the Code of Virginia.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

The alternative is to repeal the regulation as no longer necessary to protect the health, safety, and welfare of citizens of the Commonwealth.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Benjamin	Benjamin stated that it was in the best interest to make school lunches free for all public schools. His rationale was that students should not worry about having to pay for school lunch since students are required to attend school and that they deserve a well-balanced meal.	<p>VDOE thanks Benjamin for his feedback concerning this periodic review of 8VAC20-290. This chapter establishes that the sale of food items in school during the lunch period shall be limited to those items recognized as being components of the school lunch program's Type A lunch and breakfast in keeping with federal requirements that existed when this regulation was first enacted. This chapter is not related to the fee or a student’s school lunch account. The comments received are outside the scope of the regulation undergoing periodic review.</p> <p>Please note, CHAPTER 586 of the 2024 Acts of the Virginia General Assembly has directed the Superintendent of Public Instruction, in coordination with the Secretary of Education, to convene a stakeholder work group to (i) study the estimated impact of offering free school meals to students statewide, (ii) identify options to reduce or eliminate student and school meal debt, and (iii) make recommendations regarding options to leverage other programs funded at the state and federal levels for student school meals. This work group will report its findings and recommendations to the Joint Subcommittee on Elementary and Secondary Education Funding by November 1, 2024.</p>

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This regulation is outdated and is no longer necessary for the protection of public health, safety, and welfare.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The periodic review found that the regulations are outdated, and the promulgating agency's decision is to repeal the regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

There is no longer a continued need for this regulation because it is outdated. One comment was received during the periodic review, the substance of which was outside the scope of the periodic review. The regulation is not overly complex. The regulation does not appear to have been amended since it became effective on September 1, 1980, and contains references to outdated law and terminology. It is not expected that the agency's decision to repeal the chapter will have an impact on small businesses.
