

Plan for Virginia's Food Safety Programs

November 13, 2019



Executive Summary

The 2018 Appropriations Act (Budget Bill) requires the Virginia Department of Health and the Virginia Department of Agriculture and Consumer Services (“the Departments”) to collaborate to develop a plan that address six areas: 1) the likelihood of additional general fund resources for this activity; 2) projected workloads, including the total number of establishments subject to inspection by type of establishment; 3) cost containment and efficiency strategies in program management through increased reliance upon technology; 4) options to fund the programs or a portion of the programs through a flexible fee schedule that considers the number, size, and type of establishments and the time and resources required to inspect such establishments; 5) the feasibility of unifying the food safety inspections currently performed by the Departments; and 6) legislation to implement the plan. In addition, the bill requires the Departments to seek input from various stakeholders from local government, private sector entities, and the public.

The Departments are state agencies with shared responsibility to oversee food safety programs in Virginia. The VDACS Food Safety Program oversees the regulation of food manufacturers (processors), dietary supplement manufacturers, and retail food establishments such as supermarkets, groceries, convenience stores, bakeries, and other similar entities. Currently, the VDACS Food Safety Program has an inventory of over 13,000 food establishments, including processors, food storage facilities, and retail locations. For fiscal year 2018, the program provided technical assistance to 1,025 new food businesses that opened in Virginia.

The VDH Restaurant Inspection Program includes food establishments ranging from restaurants, mobile food units, food service at public schools and correctional facilities, to sporting event stadiums. As of 2017, VDH had approximately 30,000 restaurants under permit.

Below, we summarize our findings and recommendations in the six areas directed by the Appropriation Act.

General Fund Investments

This report identifies a personnel shortfall within the VDACS Food Program. One option to address the resource gap is to increase general fund appropriation to support additional staffing. However, as we discuss below, there are also other options for addressing the resource gap.

Projected Workload

The U.S. Food and Drug Administration (FDA) recommends a staffing level of one full time equivalent (FTE) devoted to food programs for every 280 – 320 inspections performed annually, depending on the level of risk of the inspected establishment. The current workload for a VDACS Food Safety Specialist is at least 500 inspectional activities each year. There are 24 full-time Food Safety Specialists, each of whom is responsible

for covering a distinct geographic territory within the Commonwealth. VDH has an estimated 105 FTEs working in the Restaurant Inspection Program at the local level. This is an average of 347 routine inspections per FTE. The number of restaurants is estimated to increase at an annual rate of 3%.

Cost Containment and Efficiency Strategies

While the type of establishments regulated by each respective program is generally distinct, to date, the Departments have executed a number of Memorandums of Understanding intended to address those few programmatic areas where jurisdiction either overlaps or is vague, and to strengthen joint regulatory response. The Departments are committed to continuing to work together to avoid duplicative efforts and increase collaboration during such events as foodborne illness outbreaks. The Departments have incorporated improved and modernized technology resources to increase inspection efficiencies and will continue to look for opportunities where technology is beneficial. The Departments have incorporated a modernized database capable of electronically networking with both field staff and laboratory resources and automated processes previously performed manually, both of which have resulted in increased efficiencies and organization

Efforts to improve collaboration between the Departments include additional and more frequent correspondence, calls, and meetings at the state level in order to better assess situations and make decisions regarding jurisdictional responsibilities, as well as more frequent reviews and revision of the existing MOUs clarifying agency responsibilities. Additional networking by both VDH and VDACS with local departments of health to ensure consistency and a minimal level of duplication at the local level would also enhance current efforts to ensure that both agencies are continuing to run a food protection program that avoids inefficiencies and maximizes public health.

Option for a Flexible Fee Schedule

The Departments' operating costs are partially offset by the collection of a \$40.00 annual fee from regulated food businesses and permitted food establishments. This fee is one of the lowest fees in the nation and is significantly less than fees charged by neighboring states. Within this plan, we present the option to generate additional revenue through a flexible, tiered fee system overseen by the Departments.

Analysis of Feasibility of Unifying Programs

The Departments evaluated the feasibility of unifying their food safety inspection activities. The analysis shows unification would be a complex and costly task with a significant expenditure of time, effort, and resources with no evidence of cost savings to the Commonwealth or benefits to the businesses regulated.

Legislation to implement the plan

At this time, neither agency is requesting legislation. Currently, VDACS is evaluating options with the Office of the Attorney General to determine the extent of their existing authority to issue permits to food establishments.

Section 1: VDACS Food Safety and the VDH Restaurant Inspection Programs

Part I

VDACS Food Safety Program Overview

The VDACS Food Safety Program is a broad-based and highly technical regulatory program tasked with ensuring the safety of a large variety of food commodities produced and/or sold within the Commonwealth. From food and beverage manufacturing, to food storage and distribution, virtually all food commodities, and the processes that ensure the safety of those food commodities, fall under the jurisdiction of this program. Program personnel are responsible for ensuring compliance with Virginia's Food and Drink Law, relevant regulations adopted by the Board of Agriculture & Consumer Services, regulations promulgated under the federal Food Safety Modernization Act (FSMA), and adherence to the FDA mandated Manufactured Food Regulatory Program Standards as well as the National Retail Food Regulatory Program Standards. In total, VDACS administers approximately 45 different regulations covering a multitude of manufactured food products. In addition to food products, the program also provides oversight for the manufacture and sale of all dietary supplement products in the Commonwealth.

There are currently more than 13,000 food and dietary supplement establishments under the program's authority, comprised of food and beverage manufacturers, food warehouses and storage facilities, grocery stores and other retail establishments, farmers' market vendors, food kiosks and micro-markets, community canneries, and other businesses. Ensuring the safety of food and dietary supplement products in the Commonwealth is accomplished through a system of ongoing periodic inspections, complaint investigations, foodborne illness investigations, and food product sampling. Inspection frequency is determined utilizing a risk-related analysis, based on a particular food establishment's previous violations, as well as the inherent risk of the products and processes utilized at that establishment. The time to complete an inspection depends on the risk level and type of facility; the inspection time required for low risk food storage or retail facilities can take up to five hours, while the inspection time necessary to complete a high risk manufacturing facility can take up to 16 hours. There are 24 full-time Food Safety Specialists, each of whom is responsible for covering a distinct geographic territory within the Commonwealth.

Although surveillance, oversight, and inspections are the program's primary emphasis, significant emphasis is also placed on providing food safety education to the industry at both an individual and collective level. §3.2-51 of the Code of Virginia gives VDACS jurisdictional authority to conduct food safety inspections and surveillance, collect food samples, and investigate complaints and foodborne illnesses at all establishments

producing or holding food for introduction into commerce. This authority is expanded upon in federal regulations and mandates adopted by VDACS to more efficiently and effectively carry out the requirements set forth in the Code.

VDH Restaurant Inspection Program Overview

The Virginia Department Health (VDH) promotes and enforces food safety practices through regulation, provides consumer education, and advances the public health by collaborating with other regulatory agencies, the food service and manufacturing industries, and academia to improve food safety. Specifically, the Division of Food and General Environmental Services (DFGES) and Division of Shellfish Sanitation focus on ensuring the safety of food products and processes utilized at restaurants¹(referred to herein as food establishments), the sanitation of shellfish growing areas and the food products produced by such growing areas such as crab or molluscan shellfish, and milk plants. This plan will focus primarily on food safety from the aspect of food establishments (i.e. Restaurant Inspection Program) and therefore will not include analyses of activities associated with shellfish sanitation or the Grade “A” Milk Program.

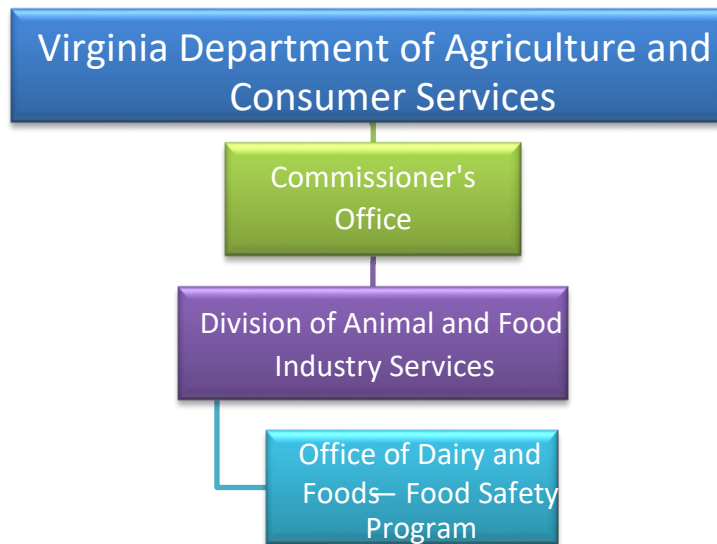
The General Assembly vested the authority to regulate certain food establishments in Sections 32.1 and 35.1 of the Code of Virginia. Such authority mandates the Board of Health to promulgate, adopt, and enforce regulations related to food safety under select sections of the Code of Virginia. The ability to adopt regulations has enabled VDH to establish an effective and proactive Restaurant Inspection Program to ensure food safety across the Commonwealth. This program includes the issuance of a permit, license, or certificate to facilities that demonstrate compliance with statutory and/or regulatory requirements, the utilization of comprehensive inspections at a frequency determined by select factors such as the complexity of food preparation or compliance history, the investigation of suspected foodborne illness complaints and outbreaks, and all activities necessary to enforce regulatory requirements.

VDACS Food Safety Program Staff and Responsibilities

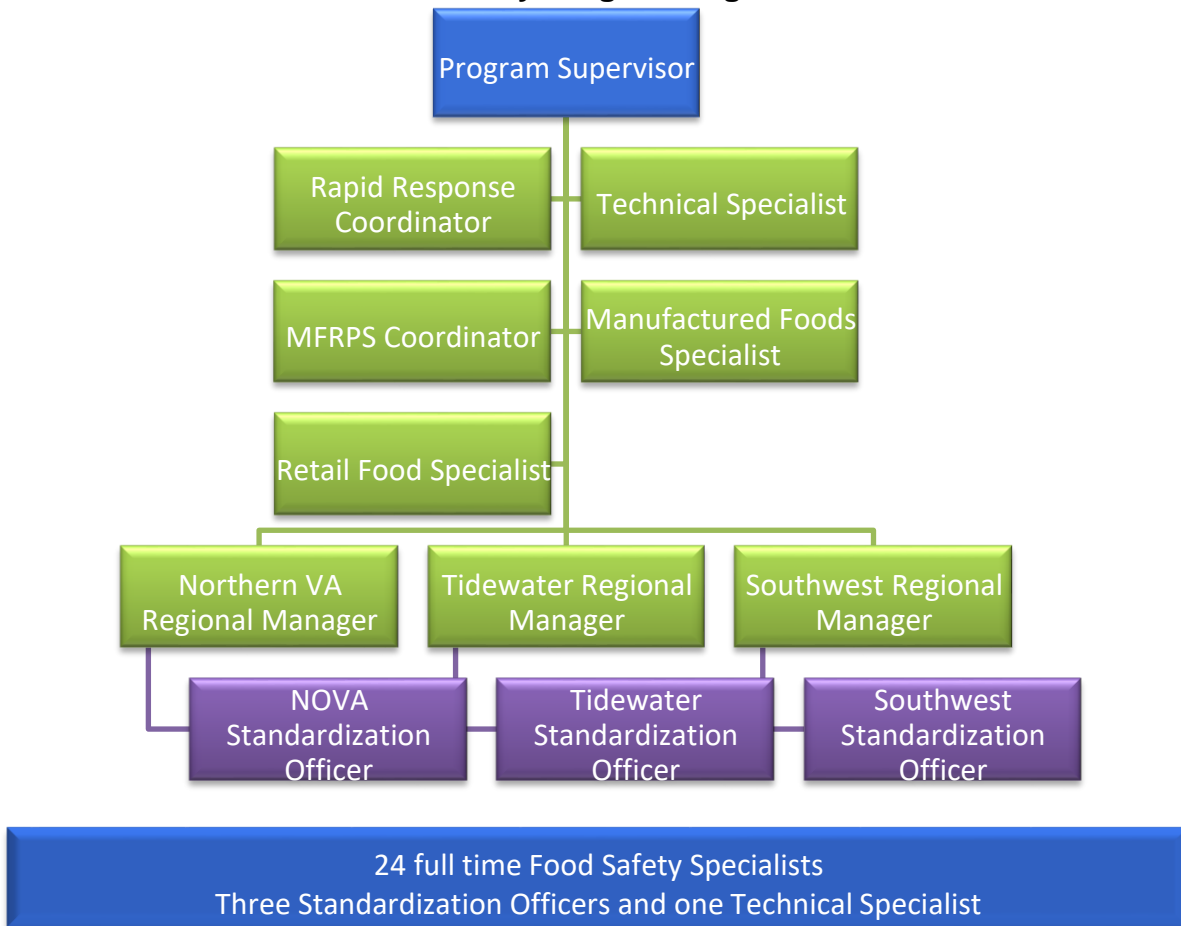
The VDACS central office, located in the City of Richmond, serves as the headquarters for VDACS food safety activities. Within this office are the Program Supervisor, who provides overall guidance and direction for all food and dietary supplement safety related activities; the Food Safety Program Rapid Response Team Coordinator, who leads the team that handles emergency situations to address and mitigate the effects of food-related incidents and foodborne illness outbreaks; and three additional employees, who ensure that existing mandated federal standards are met with respect to manufactured food inspections and related program activities.

¹ Typically, any place where food is prepared for service to the public on or off the premises, or any place where food is served.

VDACS Organizational Chart



VDACS Food Safety Program Organizational Chart



The Food Safety Program currently employs a field staff of 24 full-time Food Safety Specialists, each of whom is responsible for covering one of 24 geographic territories within the Commonwealth. Food Safety Specialists conduct inspections, complaint investigations, and foodborne illness investigations at food processing establishments, food storage warehouses, and retail food establishments in their territory. Similar inspections and protocols are followed for establishments producing and selling dietary supplements.

VDACS Food Safety Specialist Territories



Three Standardization Officers regularly work with the Food Safety Specialists to ensure consistency and adherence with current laws, regulations, policies, procedures, and food safety mandates established by the Federal Food Safety Modernization Act (FSMA). Three Regional Managers supervise the activities of the Food Safety Specialists and Standardization Officers. Finally, the program has one staff member located in the Tidewater Regional Office, who works with the Standardization Officers to ensure that the program complies with federally mandated standards relating to retail food safety. This individual also works to ensure that the Food Safety Program maintains a current version of the FDA Retail Food Code and participates in the revision and adoption of that code.

The Food Safety Program also participates in statewide food-related economic development activities with persons and businesses interested in manufacturing or selling food products in Virginia. Some of these economic development activities include reviewing proposals for new food businesses and assisting businesses with the development of safe food processes.

VDH Program Organization and Staffing

As noted, VDH works to protect the public health by preventing the transmission of disease through food, milk, shellfish, water, and sewage, and to work in partnership with other agencies to protect the environment.

DFGES Organization Structure



The Division of Food and General Environmental Services (DFGES), within the Office of Environmental Health Services (OEHS) in the VDH central office, is responsible for administering standards related to tourist establishments such as hotels, pools, and campgrounds, in addition to food safety. The Director of DFGES manages and coordinates operations within the division to ensure appropriate application of regulatory standards as they pertain to food safety. Three staff members serve as State Standardization Officers (SSO) and/or State Rating Officers (SRO), trained by the FDA, who serve as training and technical advisors to the 35 local health districts in the Restaurant Inspection Program and Grade “A” Milk plants. Lastly, the Policy Analyst performs independent assessments of legislation, policy, and regulations in an effort to provide guidance and develop policies. The DFGES staff play a significant role as advisors, trainers, and leaders to field staff, administrators of statutorily mandated regulatory programs, and facilitators of community engagement surrounding food safety.

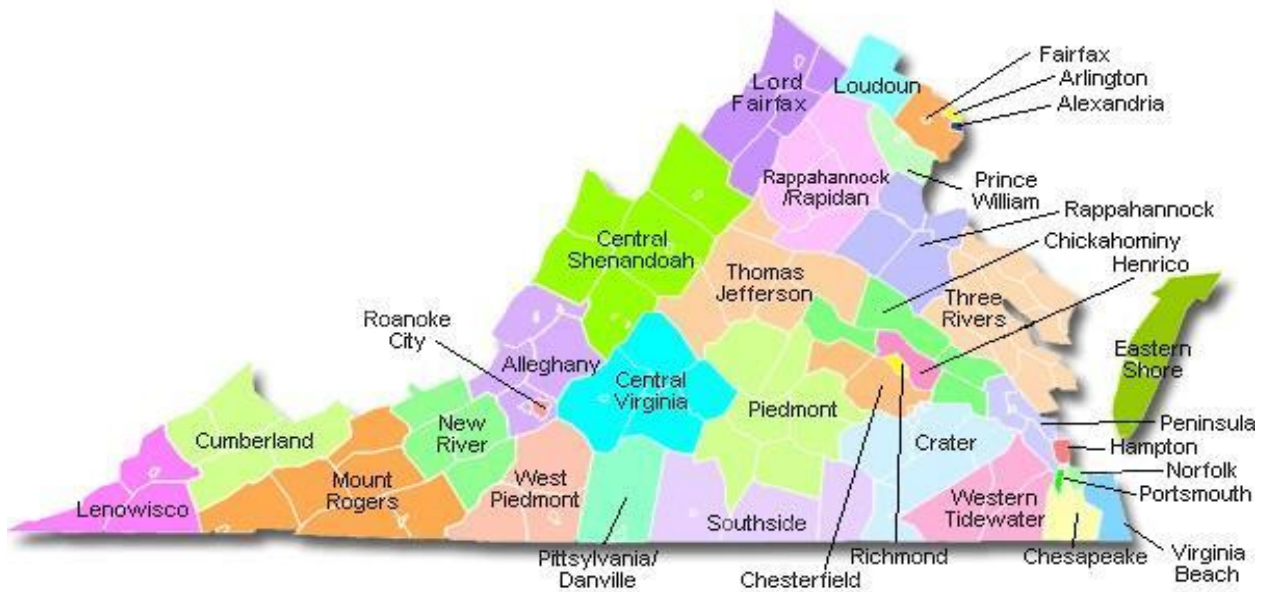
Comparing the Roles of VDH Environmental Health Specialists and VDACS Food Safety Specialists

Comparison Factor	Virginia Department of Agriculture and Consumer Services	Virginia Department of Health
Number of Specialists	24	About 300 local health department staff
Percentage of FTE Dedicated to Food Inspection	100%	On average about 35%, the majority of EHS's, are not solely dedicated to conducting food establishment inspections
Other Duties Outside of Food Inspection	None	Non-food related environmental health duties such as sewage, wells, pool, vector control, and tourist establishment inspections
Types of Food Facilities Inspected	Food manufacturers, such as food canneries, bakeries, bottlers, breweries, and a wide variety of additional food processors including home manufacturers, food warehouses, retail food stores, dietary supplements,	Restaurants, which range from traditional 'brick and mortar' facilities and mobile food units to food service at public schools, correctional facilities, and hotels
Food Regulations Enforced	45 different federally adopted regulations including the Manufactured Food Regulatory Program Standards and Retail Food Regulation	Retail Food Regulation

Local Health Department Organization Structure

The local health districts provide services that not only enhance health, but also reduce the incidence of conditions that may adversely affect the health, safety, and well-being of the citizens of the Commonwealth. There are approximately 300 Environmental Health Specialist (EHS), local health department staff, across the state. Food safety is just one aspect of an EHS's duties, as their responsibilities also include inspecting sites and issuing permits for onsite sewage disposal systems, alternative discharging sewage treatment systems, vector control, private well water standards, hotels, campgrounds, summer camps, migrant labor camps, and correctional facilities.

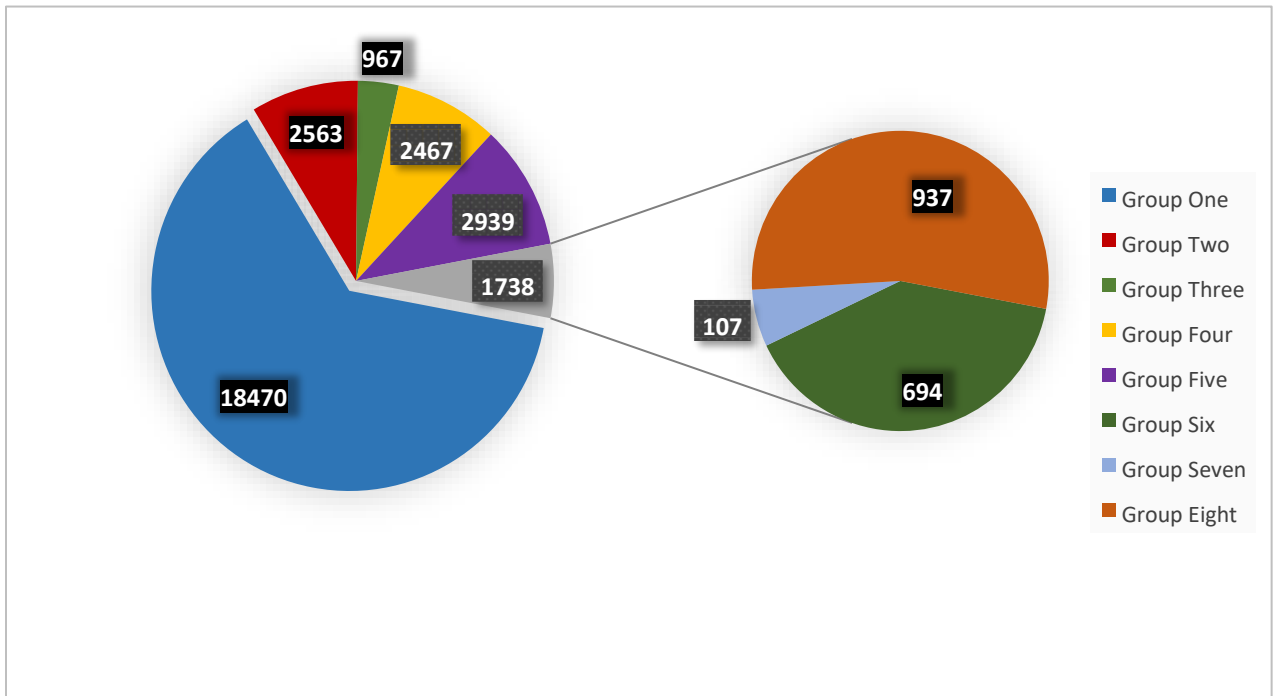
Map of VDH Local Health Districts



VDH Food Establishment Overview

As of 2017, VDH had jurisdiction over approximately 30,000 permitted food establishments across the Commonwealth. Such facilities ranged from traditional food establishments, mobile food units, food service at public schools and correctional facilities, to sporting event stadiums. Traditional food establishments, or “brick and mortar facilities,” represent the majority of the various types of facilities in the Commonwealth. VDH expects the number of food establishments to increase at an annual rate of 3% each year.

Categories of Food Establishments by Number



Group Key

Group 1	Restaurants	Group 2	Health and Child Care Facilities
Group 3	Grocery and Convenience Stores	Group 4	Schools(Pre K-College)
Group 5	Catering/Commissary/Mobile Food Units	Group 6	Hotel/ Bed and Breakfast
Group 7	Correctional Facilities	Group 8	Other ²

² Movie theaters, Stadiums, Social Clubs, etc.

Comparing VDH and VDACS Inspections

Comparison Factor	Virginia Department of Agriculture and Consumer Services	Virginia Department of Health
Number of Firms	Approximately 13,000	Approximately 30,000
Types of Food Facilities Inspected	Food and beverage manufacturers, grocery stores and other retail stores, farmers' market vendors, food warehouses, home manufacturers, micro-markets, community canneries, and other businesses.	Ranges from traditional restaurants, mobile food units, food service at public schools and correctional facilities, to hotels and sporting event stadiums
Frequency of Inspection	Determined utilizing a risk-related analysis, based on a particular food establishment's previous violations, as well as the inherent risk of the products and processes utilized at that establishment	Required by the Code of Virginia to conduct inspections at least once annually, but may be more frequent based on risk
Issue Permits	No	Yes
Conduct complaint and foodborne illness investigations	Yes	Yes

Challenges for the VDACS Food Safety Program

As of June 2018, the VDACS Food Safety Program had an inventory of 13,075 inspected and surveilled food and dietary supplement establishments. In 2017, the program conducted 11,126 inspectional activities (food safety inspections, sample collections complaint investigations and foodborne illness investigations). For the fiscal year 2018, the ODF Food Safety Program helped to open 1,025 new food businesses in the state. A total of 2,296 hours were spent working with vendors to open these new establishments.

Currently, each full time Food Safety Specialist is responsible for up to 600 food establishments. The U.S. Food and Drug Administration (FDA) recommends certain levels of resources (funding, staff, and equipment) necessary to support an inspection system designed to reduce foodborne illnesses, and the number of full-time equivalent employees (FTEs) per number of food establishment inspections is included in those recommendations. The FDA recommends a staffing level of one FTE devoted to food programs for every 280 – 320 inspections performed annually, depending on the level of risk of the inspected establishment. VDACS Food Safety Specialists currently perform almost 500 inspectional activities each year, meaning there is not currently an optimal staffing level when compared with the national benchmark.

Over the last several years the volume of work, and in particular the level of technical responsibility for Food Safety Specialists has increased significantly. Changes within the food industry have resulted in an increase in establishments at both the retail and manufacturing level that produce highly specialized and potentially hazardous food-related products. An increase has been seen in retail stores, such as supermarkets and groceries, regarding the utilization of specialized manufacturing processes. Evolving retail operations means such stores now conduct specialized processes to manufacture for retail sale products such as smoked meats, cured meat products, rice acidification for sushi manufacturing, and products contained in reduced oxygen packaging. These products pose a higher risk of being contaminated with pathogens, which can lead to serious foodborne illness. These products require an enhanced degree of scrutiny by and a high level of expertise from Food Safety Specialists and Managers to ensure their safety and to mitigate the potential for foodborne illnesses. Currently there are at least 200 supermarkets, groceries, and other retail stores regulated by the Food Safety Program that are involved in specialized manufacturing processes.

In addition to having a food science background and science degree, Food Safety Specialists must currently complete at least 80 online food safety-related science courses, as well as a significant amount of classroom training (both initial and ongoing), that includes Good Manufacturing Processes, Specialized Manufactured Food Processing, Acidified Foods, Juice Hazard Analysis Critical Control Points (HACCP), and Seafood HACCP. This training is provided by the FDA as well as academia, to ensure that the VDACS Food Safety Specialists are adequately prepared to protect public health, address current issues and concerns within the food industry, and comply with current national standards. Also provided is an intensive 12 weeks of retail food training and eight (8) weeks of manufactured food training in the field with existing Food Safety Program inspection staff. The training also exposes the Food Safety Specialists to a wide variety of food processes and food establishments.

Significant resources are expended training each new Food Safety Specialist; the total cost to VDACS to train one new specialist is approximately \$23,400 for training and travel. Completion of the mandatory retail and manufactured food training requires at least five months. Food Safety Specialists must complete approximately 40 hours of continuing food safety education on an annual basis. The intensive training and unique and complex manufactured food training that Food Safety Specialists receive ensures that the VDACS Food Safety Program has a well-trained staff able to inspect specialized manufacturing processes that occur at traditional manufacturers, as well as similar, new processes conducted in retail food stores.

In order to promote a nationwide food safety system that is uniform, Virginia has adopted the FDA's Retail and Manufactured Food Regulatory Program Standards ("the Standards") and conducts ongoing program-related assessments to ensure that businesses are in conformance with the Standards. The Standards are a critical component of establishing the national Integrated Food Safety System (IFSS). The goal of the Standards is to implement a nationally integrated, risk-based food safety system

focused on protecting public health using preventative measures. The Standards establish a uniform basis for measuring and improving the performance of prevention, intervention, and response activities conducted by state-level retail and manufactured food regulatory programs in the United States.

The development and implementation of the Standards enable state-level food regulatory programs to better direct their regulatory activities toward reducing foodborne illness. It is also important to note that Food Safety Specialists must be fully standardized and audited by the FDA or an FDA-certified VDACS Standardization Officer to ensure that their knowledge and understanding at both the retail store and manufacturing level is adequate to address important food safety issues and to properly protect public health.

Deployment of FSMA and the accompanying FDA Manufactured and Retail Food Regulatory Program Standards also mandate that Virginia's Food Safety Program conduct inspection and surveillance activities, utilizing a uniform and highly scientific approach that takes into account an evolving food industry relative to both the retail and manufacturing sector. The new federal regulations, now in effect and enforced by the FDA, place additional requirements on food manufacturers across the nation. Virginia manufacturers have expressed their desire to have the VDACS Food Safety Program work with and assist them in coming into compliance with these new regulations. Industry has indicated that the VDACS Food Safety Program has a proven track record of creating a constructive and positive environment that provides guidance, support, and assistance with regulatory requirements, while simultaneously maintaining sensitivity to the economic viability of a particular food establishment.

As a result of national regulatory changes that have taken place relative to food safety, the amount of training, understanding, preparation, specialization, and level of scientific knowledge required to regulate food has increased dramatically. Additionally, oversight responsibilities that were not present or addressed in the past, such as an expanding and increasingly complex dietary supplement industry, an expanding "buy local" farmers market system, a greatly increased home-based processing facility sector, and an increased level of technical assistance and education requested by the food industry relating to food product development and safety, add additional responsibilities to the Food Safety Program.

Beyond inspectional activities and responsibilities, the VDACS Food Safety Program also plays a significant role in the viability and growth of Virginia's food industry and economic development. For the fiscal year 2018, the Food Safety Program provided technical assistance and expertise necessary for at least 1,025 new food establishments to open for business. The Food Safety Program works with both new and existing food businesses--including food processors such as wineries, breweries, specialty food manufacturers, and retail food establishments--to provide expertise and essential input regarding building a viable food business. Staffing constraints can delay the ability of food establishments to expand an existing business, open new businesses, and hire new employees.

The VDACS Food Safety Program plays a significant part in ensuring food products manufactured in the Commonwealth can be shipped and sold to other countries, thus contributing to the health of Virginia's economy. However, before these products can be shipped to other countries, if required by the destination country, each manufacturer must contact the Food Safety Program to obtain a Certificate of Free Sale. Certificates of Free Sale issued for manufactured foods being exported outside the United States confirms to the receiving country that the manufactured food facility produces that product, under what regulatory authority the facility is inspected, and that the facility is in good standing with that regulatory authority. The VDACS Food Safety Program provides approximately 400 Letters of Free Sale annually to manufactured food product facilities so that they can export their food products around the world. Before obtaining this document, destination countries require that the facility be inspected and the products be verified as safe. The Food Safety Program strives to ensure that these requirements are accomplished in a timely manner. However, delays can occur due to staffing constraints.

The lack of clear authority to permit food establishments can also create challenges to program administration. The VDACS Food Safety Program is one of only two state programs in the nation that does not have a clearly defined authority to issue permits to food establishments in order to allow for their operation. Currently, the Food Safety Program does not have an efficient way to account for each and every food establishment that opens for business in the Commonwealth. While businesses are required by law to be under inspection before operating, they are accounted for only when the owner or manager of the proposed food business contacts the agency for inspection. When a Food Safety Specialist observes an uninspected establishment during his or her daily activities, or when a complaint is received regarding the uninspected establishment, these establishments are then advised of their legal requirement to be under inspection. Uninspected food establishments are problematic because their personnel may be unaware of current laws, regulations, and food safety requirements.

Requiring a permit to operate would also allow the agency to halt operation of an establishment that is found to be compromising public safety. Currently, if an establishment commits significant food-related violations, the Food Safety Specialist must visit the establishment multiple times to build a case against the operators. The Food Safety Specialist must then present the case to the Commonwealth's Attorney and participate in criminal proceedings against the establishment or individuals in violation. This process takes considerable time and significantly reduces efficiencies at both the field and management levels. Currently, the VDACS Food Safety Program, in consultation with the Office of the Attorney General, is examining options that may eventually allow for the issuance of a permit.

VDH Workload Overview

The workload, as it relates to the VDH Restaurant Inspection Program and this study, consists of training provided by DFGES staff and inspections and enforcement conducted by field staff at the local health departments. The Standardization Officers (SSO) work in concert with the 35 local health districts to ensure a standard methodology when conducting inspections and administering regulations and statutes pertaining to food establishments. EHSs who conduct regulatory food inspections to determine compliance with state regulations and/or local ordinances require standardization. The process of standardization utilizes a “top-down” training process. The SSOs standardize one EHS from each district, a District Standardization Officer (DSO). Each DSO is responsible for standardizing local EHS staff within their district who conduct regulatory inspections of food establishments.

The process of initial standardization includes 42 hours of online course work, 54 hours of in-classroom coursework, and approximately 100 hours of in-the-field training. Standardization is required within the first 18 months of hire and is maintained through proctored field exercises and continuing education courses. The total estimated cost to onboard a new standardized EHS is approximately \$5,200; the cost to maintain standardization is less than \$1,000 every three years.

VDH utilizes inspections to reduce and prevent foodborne illness and determine regulatory compliance. Each inspection results in an inspection report, which serves as a “snapshot” of a food establishment’s condition on the day and time of that inspection. In 2017, local health department staff conducted approximately 70,000 food establishment inspections. These included inspections that range from the routine, to follow-up inspections conducted in response to compliance issues or complaints, to a reopening inspection of an establishment that was subject to fire or nature disaster. These inspections vary greatly regarding time and resources expended.

The Food and Drug Administration (FDA) Retail Food Program recommends certain levels of resources (funding, staff, and equipment) necessary to support a food safety inspection system that is designed to reduce foodborne illnesses;

What is Standardization?

The Retail Program Standards (Standards), designed by the FDA in collaboration with federal, state, and local regulatory officials, industry, trade, and professional associations, academia, and consumers, is a document designed to provide guidance to reduce or eliminate the occurrence of foodborne illness. This elimination is achieved through a uniform training, consumer education, and regulatory framework.

Standardization occurs when an individual, by a combination of classroom and field training, demonstrates the knowledge, skills, and ability to adequately inspect food establishments and other administrative duties.

the number of full-time equivalent (FTE) EHSs per number of food establishment inspections is included in those recommendations. The FDA recommends a staffing level of one FTE devoted to food programs for every 280 – 320 inspections performed annually, depending on the level of risk of the inspected food establishment. The most recent FDA recommendations focus on a measure of resources defined as *inspections* per FTE rather than *food establishments* per FTE. This process accounts for the varying levels of food establishments per risk category and the subsequent frequency of required inspections that differ between jurisdictions.

The majority of EHSs in the Commonwealth are not solely dedicated to conducting food establishment inspections; estimating the FTE number of EHSs dedicated to the VDH Restaurant Inspection Program is an exercise accomplished by surveying managers in each health district. While this method has provided useful data, it suggests that additional analysis is necessary in order to gain a more accurate understanding of staffing resources. Changes in the food industry (e.g. temporary vendors and mobile food trucks) along with limitations of VDH's current information tracking system (e.g. slow development of new modules and inconsistent data entry) also introduce uncertainties into VDH's accounting for food safety resources at this time.

In 2017, VDH staff conducted an estimated 36,570 routine inspections of select food establishments.³ Based on the number of routine inspections conducted, VDH has an estimated 105 FTEs working in the Restaurant Inspection Program at the local level. This is an average of 348 routine inspections per food FTE.

VDH staff recognize a full accounting of resources and analysis utilizing reliable data is necessary prior to recommending additional funding for the Restaurant Inspection Program.

³ Inspection data from the City of Fairfax was excluded as it operates as an independent locality. In addition, data regarding inspection mandated as part of local ordinances and temporary food establishments were excluded due to data entry inconsistency.

Part II

Comparing VDH and VDACS Budgets and Fees

Comparison Factor	Virginia Department of Agriculture and Consumer Services	Virginia Department of Health Environmental Health Services
Annual Budget	\$5,057,108 ⁴	\$20,770,105
General Fund	\$2,822,637	\$11,326,551
Annual Inspection Fee	\$40	\$40
Fee Revenue	Approximately \$370,000 (7.3% of the total budget)	Approximately \$1,200,000 (5.78% of the total budget)
Federal Grants	Yes	No
Local Funding	No	\$8,243,554
Additional Staffing Needed	Yes	Does not recommend additional general fund support at this time, special consideration to the current fee schedule is warranted to ensure long-term effectiveness

VDACS Budget Overview

The VDACS Food Safety Program is responsible for the inspection and regulation of both food manufacturing and food retail establishments within the Commonwealth. In fiscal year 2019, the amount of general fund support provided to the program was \$2,822,637. VDACS is authorized by the Appropriation Act to collect an annual inspection fee of \$40 from each establishment that is subject to inspection pursuant to §3.2-51 of the Code of Virginia.

The Food Safety Program has received the following federal manufactured food inspection contracts and grant awards:

- FDA Manufactured Food Inspection Contract: \$386,830 in fiscal year 2019. The Food Safety Program contracts with the FDA to conduct 295 inspections at food manufacturers in the Commonwealth on behalf of the FDA. These inspections ensure compliance with the food provisions of the Federal Food, Drug, and Cosmetic Act. The Program also conducts 30 seafood Hazard Analysis Critical Control Point (HACCP) inspections, three juice HACCP inspections, and three acidified food inspections on the FDA's behalf annually.

⁴ Total FY 2019 appropriation for service area 554-01. Includes other funding besides VDACS Food Safety Program general fund, fee revenue, and federal grants. Of this appropriation, 44 percent is for nongeneral funds.

- **Manufactured Food Regulatory Program Standards (MFRPS) Grant:** \$225,000 per year. The Food Safety Program received the funding necessary to achieve and maintain conformance with the most current version of the federal MFRPS, which are intended to ensure that state-level manufactured food regulatory programs meet federal standards and develop and maintain best practices for a high-quality state regulatory program. In addition, the program standards are intended to enhance food safety by establishing a uniform basis for measuring and improving the performance of manufactured food regulatory programs in the United States.
- **Rapid Response Team (RRT) Grant:** \$225,000 per year. The Food Safety Program received the funding to facilitate long-term improvements and innovation to the FSMA mandated National Integrated Food Safety System. This will be achieved by unifying and coordinating federal, state, and local emergency response efforts and continuing to build and maintain a multi-agency VDACS based Virginia Rapid Response Team.
- **Retail Food Regulatory Program Standards (RFRPS) Grant:** \$70,000 per year. The Food Safety Program received the funding necessary to achieve and maintain conformance with the most current version of the federal RFRPS, which are intended to ensure that the VDACS retail food regulatory program meets federal standards and develops and maintains best practices for a high-quality state regulatory program. In addition, the program standards are intended to enhance food safety by establishing a uniform basis for measuring and improving the performance of retail food regulatory programs in the United States.

State food programs supported by federal grants are required to demonstrate that these funds have not replaced state allocations. Additionally, federal funding may only be used to hire field staff dedicated to the federal program objectives; it may not be used to hire general field personnel. In addition to funding many of the program activities such as training and equipment, these contracts and grants support four positions that provide support to various food safety activities.

VDH Budget Overview

The 2017 fiscal year budget to implement and administer all VDH environmental health programs was \$20,770,105 and the general fund was \$11,326,551. The fee structure outlined in the Appropriation Act authorizes VDH to assess a fee, not to exceed \$40, for the review of food establishment plans and renewal of food establishment permits. Based on the number of food establishments and the current fee schedule, VDH collects approximately \$1,200,000 in fee revenue each fiscal year (5.78% of the \$20,770,105 total budget). In fiscal year 2019, VDH revised internal processes to create unique identifiers to distinguish between different types of environmental health programs administered by local health districts. The general fund in fiscal year 2019 for the restaurant and food safety program was \$6,444,347.

VDACS Cost Containment, Efficiency Strategies, and Enhanced Technology

Food Safety Specialists perform administrative tasks at assigned “home-based” offices within their designated territories, thus eliminating unnecessary travel to and from a central office. In addition, Food Safety Specialists plan food establishment inspections in geographic clusters so that all inspections during a single workday are in reasonable proximity to one another. These practices ensure that personnel operate with maximum efficiency by reducing travel time.

The VDACS inspection system prioritizes food establishments that pose the greatest risk to human health and safety. Food establishments that pose a higher food safety risk are inspected with greater frequency than establishments that pose less risk. Inspections are configured so that Food Safety Specialists, rather than performing typical “front-to-back” inspections, focus primarily on those risk factors identified by the U.S. Centers for Disease Control (CDC) as the main contributors to foodborne illness in the United States. This approach provides the highest level of public health protection relative to time expended at a particular establishment.

The Food Safety Program also monitors the food supply via analysis of diverse and numerous food product samples. To minimize travel time, these samples are collected when an inspector is already present at an establishment, such as during routine inspections, surveillance activities, complaint investigations, and foodborne illness investigations. Supplies and equipment used by food safety personnel are closely monitored to ensure efficiency and propriety.

Significant emphasis is placed on the education of food establishment personnel to ensure a thorough understanding of food safety principles and practices and public health issues. Education also assists establishments relative to remaining in compliance with applicable laws and regulations and helps the program avoid frequent, repetitive inspections of establishments often caused by a lack of food safety knowledge. By avoiding repeat inspections of the same establishment, the VDACS Food Safety Program can expend its resources ensuring that other food establishments process and sell food and dietary supplements that are safe and wholesome.

The VDACS Food Safety Program also oversees a Rapid Response Team (RRT), directed by the Rapid Response Coordinator. This individual coordinates a diverse network of multiple agencies, including the Food Safety Program field staff, and monitors issues and concerns regarding the food supply statewide. When food-related incidents arise, such as a foodborne illness outbreak involving food products either originating within or shipped into the Commonwealth, this individual coordinates with and leads the team to ensure that food-related incidents are addressed in an efficient and effective manner.

The Food Safety Program also utilizes a sophisticated web-based database system that allows for networking, data sharing, and the efficient generation of inspection and sample

reports, monthly work plans, and other information essential to program activities. When using the database online, real-time capabilities are available in the field environment, which facilitates the efficient completion of inspection- or investigation-related paperwork. Food Safety Specialists can also utilize an “offline client,” which allows for necessary inspector/establishment data to be generated when a connection to the Internet is not available. Information generated by the offline client is automatically uploaded to the central database when the Internet connection is restored. Managers and other supervisory personnel utilize the online database system for reviewing and routing incoming reports from field staff, as well as communication with other supervisors, communication with field staff, and the generation of all reports and data necessary to evaluate program trends and activities. The database is networked with the Division of Consolidated Laboratory Services so that all necessary data associated with a food product sampling transaction can be transferred electronically to the appropriate laboratory. Information regarding food product analysis is then transferred electronically back to the Food Safety Program for further evaluation. Agency employees are continuing to improve the existing database in order to further increase efficiency.

VDH Cost Containment and Efficiency Strategies

VDH utilizes a desktop application database system in order to enter and generate inspection reports, permits, foodborne illness reports, and general correspondence. The database, while efficient, is antiquated at over ten years old. Recognizing the need to take advantage of newer technology to make evidence-based decisions regarding resource allocation and policy, OEHS is undergoing development of a new database. The current database has limited functionality as it relates to data collection and the exportation of data into relevant reports and data analysis tools. The new database will function in “real time,” allowing field personnel to access reports, data, and complete data entry functions more efficiently. Meaningful data is needed to necessitate and validate change and to observe trends in food safety, such as the cause of foodborne illness outbreaks. The agency’s use of the new database will aid in controlling expenses through the above-referenced utilization of data.

In addition, VDH proposes to enroll in the National Environmental Assessment Reporting System (NEARS). NEARS is a free database designed by the CDC to document and track environmental assessment data from foodborne illness outbreak responses. Data is entered into NEARS by VDH staff that will then be analyzed to understand how and why outbreaks occur and share findings and recommend actions to better respond to outbreaks and prevent future ones. Factors that contributed to the illness outbreaks may include hand washing or food preparation practices that lead to food contamination. Utilization of NEARS will help inspection staff identify the underlying environmental causes of outbreaks, aid in the development or modification of regulation or program policies, and help focus limited program resources on actions with the highest impact.

While it is important to utilize technology to provide tools to use to improve upon and maintain food safety, it is equally necessary to recognize the cost containment and efficiency efforts currently underway from the regulatory and policy perspective.

The success of VDH's Restaurant Inspection Program, as it relates to the inspection of food establishments, is strongly rooted in the field staff located in the local health districts. The inspection of food establishments is compartmentalized; EHS staff inspect food establishments located within their district and assigned based on proximity to field offices. This approach, in addition to instituting a risk-based plan of inspection and internal training methodology, has greatly reduced cost and increased efficiency.

The Code of Virginia and the Food Regulations prescribe the inspection frequency of food establishments. Pursuant to §35.1-22 of the Code of Virginia, food establishments shall be inspected at least once annually, while the Food Regulations establish criteria wherein food establishments are assigned a frequency of inspection based on risk factors. Risk factors are actions that occur in food establishments that have the likelihood that, if performed incorrectly, there could be an adverse effect on health (for example, improper washing of hands, food not stored at proper temperatures, etc.). The type of food served, the food preparation processes used, the volume of food, and the population served all have a bearing on the occurrence of foodborne illness in food establishments.

VDH divides food establishments into four categories and assigns a frequency of inspection as outlined in the table below:

Risk Categorization of Food Establishments

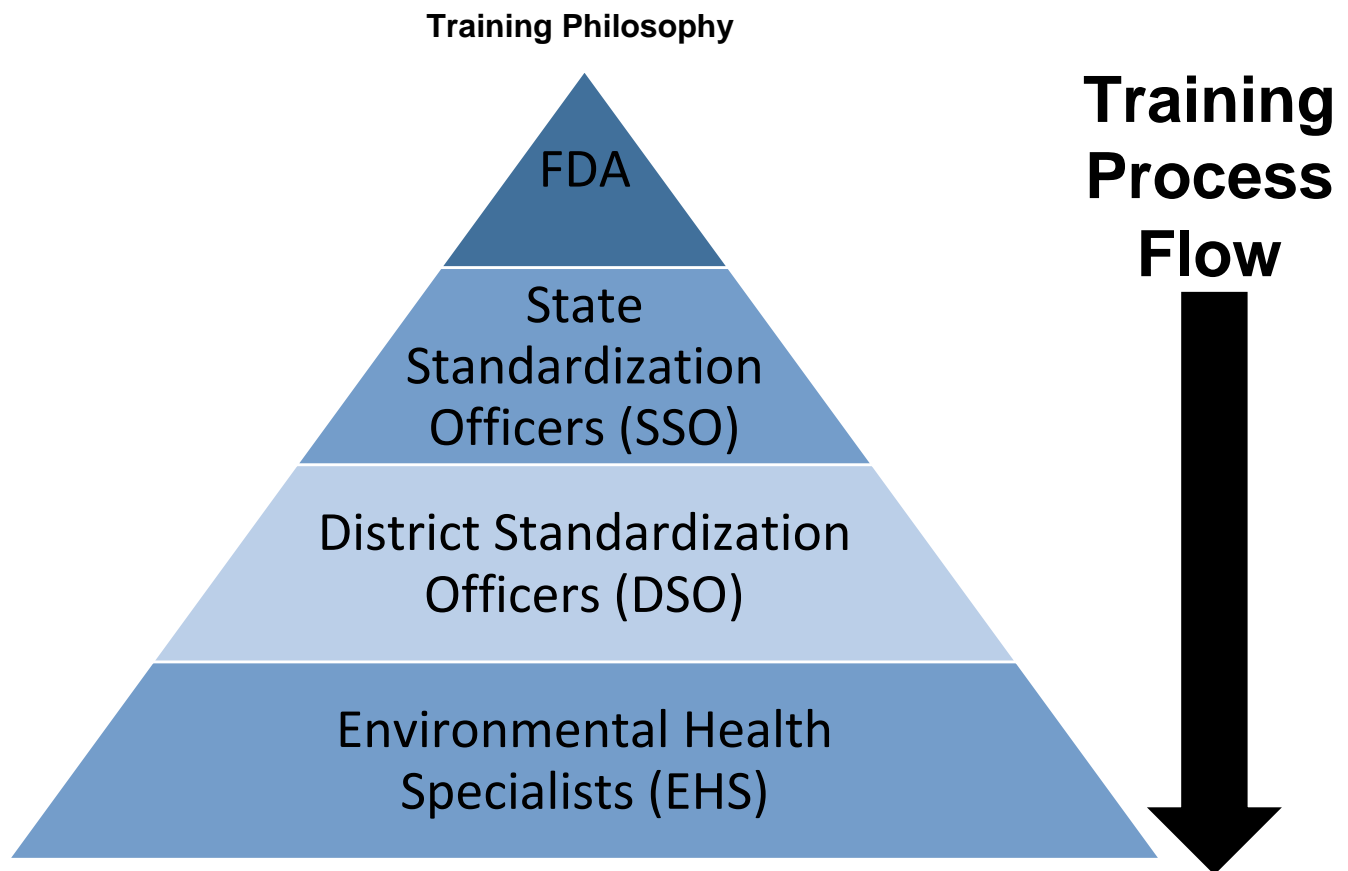
Risk Category	Description	Inspection Frequency Per Year
1	Examples include most convenience store operations, hot dog carts, and coffee shops. Establishments that serve or sell only pre-packaged, non-time/temperature control for safety (TCS) ⁵ foods. Establishments that prepare only non-TCS foods. Establishments that heat only commercially processed, TCS foods for hot holding. No cooling of TCS foods. Establishments that would otherwise be grouped in Category 2 but have shown through historical documentation to have achieved active managerial control of foodborne illness risk factors.	1
2	Examples include retail food store operations, schools not serving a highly susceptible population, and quick service operations. Limited menu. Most products are prepared/cooked and served immediately. May involve hot and cold holding of TCS foods after preparation or cooking. Complex preparation of TCS foods requiring cooking, cooling, and reheating for hot holding is limited to only a few TCS foods.	2

⁵ Time/temperature control for safety food or "TCS food" means food that requires both time and temperature controls to limit the growth of bacteria.

Risk Category	Description	Inspection Frequency Per Year
	Establishments that would otherwise be grouped in Category 3 but have shown through historical documentation to have achieved active managerial control of foodborne illness risk factors. Newly permitted establishments that would otherwise be grouped in Category 1 until history of active managerial control of foodborne illness risk factors is achieved and documented.	
3	An example is a full-service food establishment. Extensive menu and handling of raw ingredients. Complex preparation, including cooking, cooling, and reheating for hot holding. Involves many TCS foods. Variety of processes require hot and cold holding of TCS food. Establishments that would otherwise be grouped in Category 4 but have shown through historical documentation to have achieved active managerial control of foodborne illness risk factors. Newly permitted establishments that would otherwise be grouped in Category 2 until history of active managerial control of foodborne illness risk factors is achieved and documented.	3
4	Examples include preschools, hospitals, nursing homes, and establishments conducting processing at retail level. Includes establishments serving a highly susceptible population or that conduct specialized processes, e.g., smoking and curing or reduced oxygen packaging for extended shelf-life.	4

Because of factors such as time and cost, it is generally not possible for local health department staff to inspect all food establishments with the same frequency. Risk categorization increases efficiency, as it requires staff to target those food establishments with a higher degree of risk to the population, thereby reducing foodborne illness through increased frequency of inspection, education, and guidance.

As previously mentioned, EHS staff who conduct inspections of food establishments require standardization as required in the Food Regulations prior to conducting regulatory inspections independent of supervisory staff. The standardization process consists of a combination of in-classroom and field training to ensure staff can demonstrate certain knowledge, skills, and abilities to perform inspections adequately. VDH utilizes a “train the trainer” philosophy to reduce costs and ensure consistency in the application of food safety principles.



VDH SSOs receive training and standardization from the FDA. SSOs develop and deliver training to select local health department staff who conduct food establishment inspections. DSOs are responsible for the standardization of local EHS staff. The process of “train the trainer” drastically reduces costs to the agency, as the alternative consists of arranging training with the FDA, which typically consists of several weeks of coursework requiring extensive out-of-state travel, accommodations, and per-diem. VDH’s training curriculum mirrors or exceeds courses provided by the FDA, as staff can tailor training to address food safety concerns specific to Virginia and not found in other states, such as our healthy and thriving shellfish aquaculture. In addition, internal training increases inspection efficiency, as the delivery of training is identical from course to course. This prevents waste in the form of deviation from standard practice, as well as provides a consistent regulatory message regarding safety standards.

Current Collaboration and Duplication Avoidance

While there are certain types of businesses that could fall under the jurisdiction of both agencies, efforts are made on an ongoing basis to ensure that the overlap is avoided. At present, multiple Memoranda of Understanding (MOUs) exist between the Departments to clarify responsibilities and eliminate duplication in situations where the two agencies share jurisdiction of a food establishment.

There is an existing General MOU between the Departments to maintain the highest level of public health protection in food service operations in restaurants and retail food stores and to maximize the efficient use of resources by both agencies, while clarifying the responsibilities of both agencies as they relate to such operations. In addition, this agreement is intended to eliminate, to the greatest extent possible, any overlap that may occur between the Departments and to continue the cooperative working relationship between the two agencies. Three additional MOUs were developed in the past several years to continue to clarify each agency's role in the ever-changing food industry. Currently, the General MOU is being updated and refined to continue ensuring minimal overlap between the agencies. In order to accomplish this, multiple meetings have been held by representatives from both agencies to clarify, refine, and further enhance this MOU.

Additionally, the Departments have further collaborated to develop and put into place a MOU regarding jurisdictional and inspectional responsibilities of food service operations in wineries and breweries. Both Departments collaborated to clarify both inspectional and jurisdictional processes in those wineries with food preparation.

In regards to additional collaborative efforts, VDH provides an annual two-day training (Food Summit) course every December for all EHS and VDACS Food Safety Specialists. The SSOs, FDA Retail Specialists, and academia provide the training. Inspection staff receive continuing education credits for attendance. Continuing education credits are required in order to renew standardization. Another opportunity for collaboration is through the Virginia Rapid Response Team. Team members include staff from VDACS, VDH, the Division of Consolidated Laboratory Services, and FDA. The mission of the team is to provide a rapid, unified, multiagency, all-hazards response to food emergencies in order to minimize the social, economic, and public health impact. The team meets by weekly conference call to discuss updates, surveillance, activation, and priorities. The team also attends quarterly face-to-face meetings and a monthly regional conference call. The Departments frequently host trainings and conferences jointly. This past year, they hosted the Biennial Conference for Food Protection in Richmond, Virginia. This conference provided an opportunity for EHS and VDACS inspection staff to attend. The conference's purpose is to develop recommendations for FDA in regards to the FDA Food Code.

Areas Where Collaboration between Agencies May Be Improved

Efforts to further improve collaboration between the Departments include additional and more frequent correspondence, calls, and meetings at the state level in order to better assess situations and make decisions regarding jurisdictional responsibilities, as well as more frequent reviews and revision of the existing MOUs clarifying agency responsibilities. The goal of both Departments with respect to improving collaboration is for the vast majority of firms to only be inspected by one Department. In the limited areas that is not feasible, the Departments will work on providing joint inspections to provide a streamlined process for regulated companies. Additional networking by both VDH and VDACS with local departments of health to ensure consistency and a minimal level of

duplication at the local level would also enhance current efforts to ensure that both agencies are continuing to run a food protection program that avoids inefficiencies and maximizes public health.

Part III

Calculation of FTEs Needed for VDACS Retail and Manufacturing Inspections

Based on the number of establishments regulated, VDACS recommends approximately 36 FTE positions to meet the recommended workload of the FDA. The Food Safety Program currently has 24 FTEs devoted full-time to inspectional activities as well as establishment visits necessary to investigate complaints, collect product samples and respond to industry needs. An additional 12 FTEs would achieve a more optimal inspectional frequency for food establishments and to provide inspectional and educational resources to the food industry in the Commonwealth over the long-term.

RETAIL - Total number of Retail Businesses: 9,534

Risk Category	Number in Inventory	Inspection Frequency	Average Inspection Time	Re-Inspection Frequency
High	2,154	10 months	4.00 to 8.00 Hours	20%
Medium	3,347	14 months	3.00 to 6.00 Hours	20%
Low	4,033	36 months	2.50 to 5.00 Hours	10%

The lowest end of the range for average inspection time was used in these calculations.

High Risk: 2,154 (number of businesses) x 120% (annual inspection rate, risk-based frequency) = 2,584.8 + 516.96 (20% re-inspection) = 3,101.76 x 4.0 (hours per inspection) = **12,407.04 Hours**

Medium Risk: 3,347 (number of businesses) x 86% (annual inspection rate, risk-based frequency) = 2,878.42 + 575.68 (20% re-inspection) = 3,454.1 x 3 (hours per inspection) = **10,362.31 Hours**

Low Risk: 4,033 (number of businesses) x 33% (annual inspection rate, risk-based frequency) = 1,330.89 + 133.09 (10% re-inspection) = 1,463.98 x 2.5 (hours per inspection) = **3,659.95 Hours**

Approximate number of hours to conduct retail visits annually: **1,493.50 Hours**

Approximate number of hours to conduct Exempt Firm Checks: 337 firms x 1.0 hours = **337 Hours**

Total (high, med, low, visits, exempt firm checks) = **28,259.80 Hours**

28,259.80 (hours needed) / **971.76** (inspectional hours per FTE) = **29.1 FTE Retail Inspectors**

*971.76 consists of average of total hours per Food Safety Specialist available for inspections. It does not include administrative duties and travel time to locations of inspection.

MANUFACTURING - Total Number of Manufacturing Businesses: 3,324

Risk Category	Number in Inventory	Inspection Frequency	Average Inspection Time	Reinspection Frequency
High	250	10 months	4.00 to 16.00 Hours	20%
Medium	823	14 months	3.50 to 5.00 Hours	10%
Low	2,251	36 months	2.50 to 3.00 Hours	10%

The lowest end of the range for average inspection time was used in these calculations.

High Risk: 250 (number of businesses) x 120% (annual inspection rate, risk-based frequency) = 300 + 60.0 (20% re-inspection) = 360.0 x 4.0 (hours per Inspection) = **1,440.0 Hours**

Medium Risk: 823 (number of businesses) x 86% (annual inspection rate, risk-based frequency) = 707.78 + 70.78 (10% re-inspection) = 778.56 x 3.5 hours (hours per Inspection) = **2,724.95 Hours**

Low Risk: 2,251 (number of businesses) x 33% (annual inspection rate, risk-based frequency) = 742.83 + 74.28 (10% re-inspection) = 817.11 x 2.5 (hours per Inspection) = **2,042.78 Hours**

Approximate number of hours to conduct Good Manufacturing Practices (GMP) visits annually: **648.50**

Total (high, med, low, visits) = **6,856.23 Hours**

6,856.23 (hours needed) / **971.76** (inspectional hours per FTE) = **7.0 FTE GMP Inspectors**

Total FTEs to Conduct Manufacturing and Retail Inspections = 36.1

VDACS General Fund Support Option

An increase in general fund support would allow the Food Safety Program to secure additional staffing and resources to meet national benchmarks with respect to inspectional frequency and the inspector to establishment ratio. An increase in general fund support would provide a stable, reliable, long-term source of funding that would enable the successful accomplishment of all program objectives. This would ultimately provide enhanced food safety and an enhancement of economic growth relative to Virginia's food and dietary supplement industry.

The average Food Safety Specialist earns an average annual salary of \$45,000 and the average supervisory position is compensated at a level \$65,000 salary plus fringe benefit costs. There are also expenses of approximately \$10,000 annually for computers, cell phones, vehicle leases, and fuel for each new position.

Increased funding would be used to assist in increasing inspection activities and decreasing the time for pre-opening inspections, which is currently about 30 days. Additionally, resources would also be utilized to address the increasing demand from the industry for assistance in developing a business, opening the business, and assisting the business in the safety analysis and approval of newly developed food processes. Additional support would allow for increased efficiencies by reducing Food Safety Specialist territory size, thus enabling field staff to spend less time driving to food establishments and more time focusing on food safety and industry needs.

VDACS Tiered Fee System Option

An alternate option for funding is to reconstruct the current fee system while ensuring continued general fund support. Currently the VDACS Food Safety Program charges food establishments subject to its oversight a flat food safety fee of \$40.00. All food establishments, regardless of size or complexity are charged this same flat fee. The flat fee is appropriate for some very small food establishments but is inconsequential for larger, more complex food establishments. A more appropriate alternative, as has been implemented by neighboring states as well as many other states throughout the nation, is to supplement the current general fund allocation provided to the program with a tiered fee system for retail and manufactured food establishments. A properly structured tiered fee system would generate support for additional Food Safety Specialists without placing an undue burden on the food industry. Such a system would retain the current minimal fee for smaller establishments while requiring additional fee related funds from food establishments whose revenue base is significantly larger. In addition to reflecting the risk, complexity and size of a food establishment, a tiered fee schedule would also more accurately reflect the amount of time spent by the Food Safety Specialist providing assessments, education, technical expertise, and inspectional services. As noted previously, fee revenue should complement and enhance general fund support, and should assist in providing the additional funds necessary to hire additional staff to address adequate food safety surveillance and meet industry needs. It will also allow the program to provide additional assistance, guidance and direction to the food industry which will

ultimately serve to prevent food borne illnesses as well as fuel and enhance economic growth within the Commonwealth. Such a system will allow multiple programmatic enhancements and industry benefits within a framework that is manageable, fair and not burdensome to the regulated industry. In preliminary outreach, stakeholders representing large businesses were open to fee increases if the funds are dedicated to enhancing the Commonwealth's food safety system. It is not anticipated that businesses will actively support fee increases, but as long as the rates are in line with neighboring states there should not be significant opposition. Outreach efforts would need to be conducted to ensure industry understood the increases would be directed towards enhancements that would benefit their business.

Comparison of Bordering States (Retail Grocery)

State	Method of Fee Assessment	Fee
Maryland	Local and county departments	\$175-450
West Virginia	Gross sales	\$0-300
Tennessee	Risk	\$50-300
District of Columbia	Type of establishment	\$422.40-1,820.50
Kentucky	Size	\$75-300
Pennsylvania	Size	\$82-610 ⁶
North Carolina	Product sold	\$0-100 ⁷

⁶ Some retail facilities are inspected by the state, and some are by local or county health departments. The state charges \$241 (\$103 if sole owner/operator) and \$82 each year for renewal. Local and county departments tend to charge much more. ²

⁷ North Carolina only assesses a fee on wholesale and retail frozen dessert manufacturers, wholesale and retail cheese manufacturers, and wholesale butter manufacturers.

Comparison of Bordering States (Manufacturing)

State	Method of Fee Assessment	Fee
Maryland	Gross sales and risk	\$10-200 ⁸
West Virginia	Gross sales	\$35-1,000
Tennessee	Size	\$50-750
District of Columbia	Size and risk	\$100-500
Kentucky	Size	\$120-600
Pennsylvania	Flat fee	\$35
North Carolina	Product manufactured	\$0-100 ⁹

Modification of Current Fee Language

Although the Departments typically inspect different types of facilities (i.e., VDH inspects restaurants, while VDACS inspects supermarkets, food manufacturers, etc.), there are times when both agencies visit the same facility to perform separate inspectional work. For example, VDH will inspect a restaurant within a supermarket, while VDACS inspects all other processing, retail, and warehousing areas within the facility. Current budget language restricts VDACS from charging a fee if VDH is charging a fee. VDACS proposes that the language in the budget be modified to allow VDACS to charge a fee regardless of any local VDH fee incurred because the inspectional services delivered to the facility are generally not duplicative. Such a change would provide a more stable source of state revenue that is not impacted by changing locality actions.

Options to Fund the VDH Restaurant Inspection Program

VDH submitted a fee structure policy in 2017 to the General Assembly. The fee structure policy included a flexible fee schedule that considered the number, size, and type of establishments and the time and resources available to inspect such establishments. This proposal includes information and data from the 2017 policy.

Neither the Code of Virginia nor the Food Regulations classify or rank food establishments by size. The approach to determining administrative costs associated with food establishments varies nationally; however, three methods were most frequently observed: (1) utilization of square footage of an establishment, (2) utilization of the number of seats in the establishment, or (3) permitting based on risk categorization. Below is a comparison of the permitting fee schedule of the states bordering Virginia.

⁸ This is the annual license fee; in addition, manufacturers pay a plan review fee of up to \$300

⁹ North Carolina only assesses a fee on wholesale and retail frozen dessert manufacturers, wholesale and retail cheese manufacturers, and wholesale butter manufacturers.

Upon a review of the bordering states, the majority have adopted a fee schedule associated with the number of seats when permitting food establishments.

Comparison of Bordering States

Locality	Method of Fee Assessment	Permit Fee
Maryland¹⁰	Fee assessed based on food establishments' risk	\$200-500
West Virginia	Fee assessed based on seats (0-25, 25-75, >75)	\$0-500
Tennessee	Fee assessed based on seats (0-50, >51)	\$40-350
District of Columbia	Fee assessed based on seats (1-10, 11-50, 51-100, and >100)	\$300-475
Kentucky	Fee assessed based on seats (1-25, 26-50, 51 to 100, 101-200 and >201)	\$160-510
Pennsylvania	Fee assessed based on a combination of seats, square footage and if liquor permit is obtained	\$75-240
North Carolina	Permit fees vary from flat rate to fee based on seats or square footage	\$50-200

For the purposes of this study, seats will be utilized as a determinant when calculating a food establishment's size.

To develop criteria for inclusion, the following data points were analyzed: (1) Number of Seats, (2) Time Spent on Inspections by Inspection Type, and (3) Cost of Inspections.

Option: Assess Fee Based on Calculation of Number of Seats

VDH utilized the Virginia Environmental Information System (VENIS) to extract data regarding food establishments. The VENIS database tracks information for various VDH environmental health programs, including inspection and permitting information for food establishments. While seating capacity is not a required data collection point, of the approximately 30,000 food establishment records contained in VENIS, over 22,000 held information regarding seating capacity. In an effort to condense data, a representative random sample size of 361 was calculated to examine "larger" establishments, and 376 were calculated to examine "smaller" establishments.

¹⁰ One locality permits based on number of seats and risk

Sample Size Selection and Calculation

Total Food Establishments with Seating Capacity Data	Total Number of Seats	Average Number of Seats
22,348	2,346,131	105

Total Food Establishments with Seating Capacity Data	Total Number of Food Establishments with greater than 105 seats	Sample Size of Total Food Establishments
22,348	5,713	361 ¹¹ or 6%

Total Food Establishments with Seating Capacity Data	Total Number of Food Establishments with 105 seats or less	Sample Size of Total Food Establishments
22,348	16,635	376 ¹² or 2%

Time Spent Conducting VDH Inspection by Type

One of the many methods utilized by VDH to reduce and prevent foodborne illness is the inspection of food establishments for regulatory compliance. The types of inspections are categorized below:

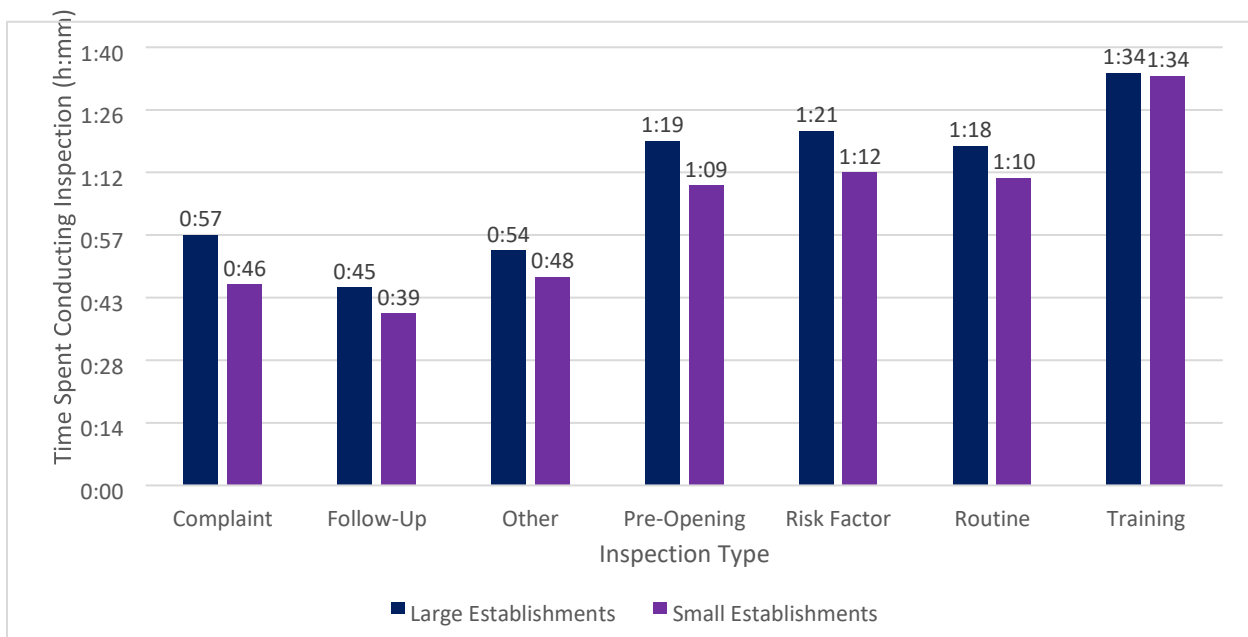
- **Routine Inspection**
 - An unannounced periodic inspection conducted to evaluate compliance with regulations.
- **Follow-Up**
 - An inspection for the purpose of re-inspecting for violations that were present at the time of the routine inspection.
- **Complaint**
 - An inspection conducted as a result of a complaint received by the health department.
- **Pre-Operational or Pre-Opening**
 - An inspection conducted to ensure, prior to opening, that a food establishment meets all regulatory requirements. This includes verifying proper placement of sinks, heating and cooling elements, menu review, and verifying the food establishment's process and procedures for excluding ill employees from food handling service.

¹¹ The sample size represents a 95% confidence level wherein results should reflect the overall total number of food establishments with a ±5% margin of error.

- **Risk Factor**
 - An inspection that focuses on risk factors that may cause foodborne illness. Such factors include food products that were not obtained from a safe source, improper holding temperatures of food products, employee hygiene, and inadequate cooking temperatures.
- **Training**
 - An inspection conducted for training purposes with staff during the standardization process or as refresher training.
- **Other**
 - A joint inspection conducted with other agencies such as the FDA or VDACS.

Utilizing the previously mentioned sample size, the chart below represents a breakdown of the average time spent conducting inspections of “larger” and “smaller” food establishments based on the type of inspection for FY 2017.

Time and Inspection Type Comparison of Food Establishments Based on Sample Size



Inspections of larger food establishments required, on average, eight additional minutes of time as compared to small establishments. Of the “large” representative sample, VDH staff expended approximately 2,186 hours conducting inspections, with an average time of one hour and ten minutes. When compared to smaller inspections, 1,963 hours were dedicated to conducting inspections, with an average time of one hour and two minutes.

Cost of VDH Inspections

As previously referenced, EHS staff that conduct inspections of food establishments require standardization prior to conducting regulatory inspections independent of supervisory staff. The standardization process consists of a combination of in classroom and field training to ensure staff can demonstrate certain knowledge, skills, and abilities to adequately perform inspections. Upon completion of standardization, EHS staff are re-banded to a new pay level with an average hourly salary of \$30.39, which includes fringe benefits. Based on an EHS staff member's hourly rate, the inspection costs of larger food establishments are roughly \$35.46 per inspection while smaller food establishments are \$31.40, difference of \$4.05.

In addition to the cost of conducting an inspection, EHS staff are required to perform basic administrative duties such as plan reviews¹², data input for inspections, and travel to conduct inspections¹³. These duties, while not all-encompassing of the tasks performed by EHS staff, reflect core responsibilities. The following chart outlines the cost of inspection and basic administrative duties for larger food establishments and the recoupment of fees utilizing the current fee schedule.

¹² Plan Review: EHS staff reviews food establishment plans (schematics, menu, equipment, etc.) to ensure effective processes for food safety are applied in the initial design and construction of new food establishments, as well as the redesign, remodel or conversion of such establishments.

¹³ Personnel cost associated with travel was excluded from this table as data is not available to analyze cost to travel specifically to "larger" establishments. However, the average total travel cost per environmental health specialist to conduct inspections of food establishments is \$9,686.14. This amount is calculated based on a travel cost per day of \$36.97 for a period of 262 days per year.

Cost to Inspect Larger Inspections Calculation

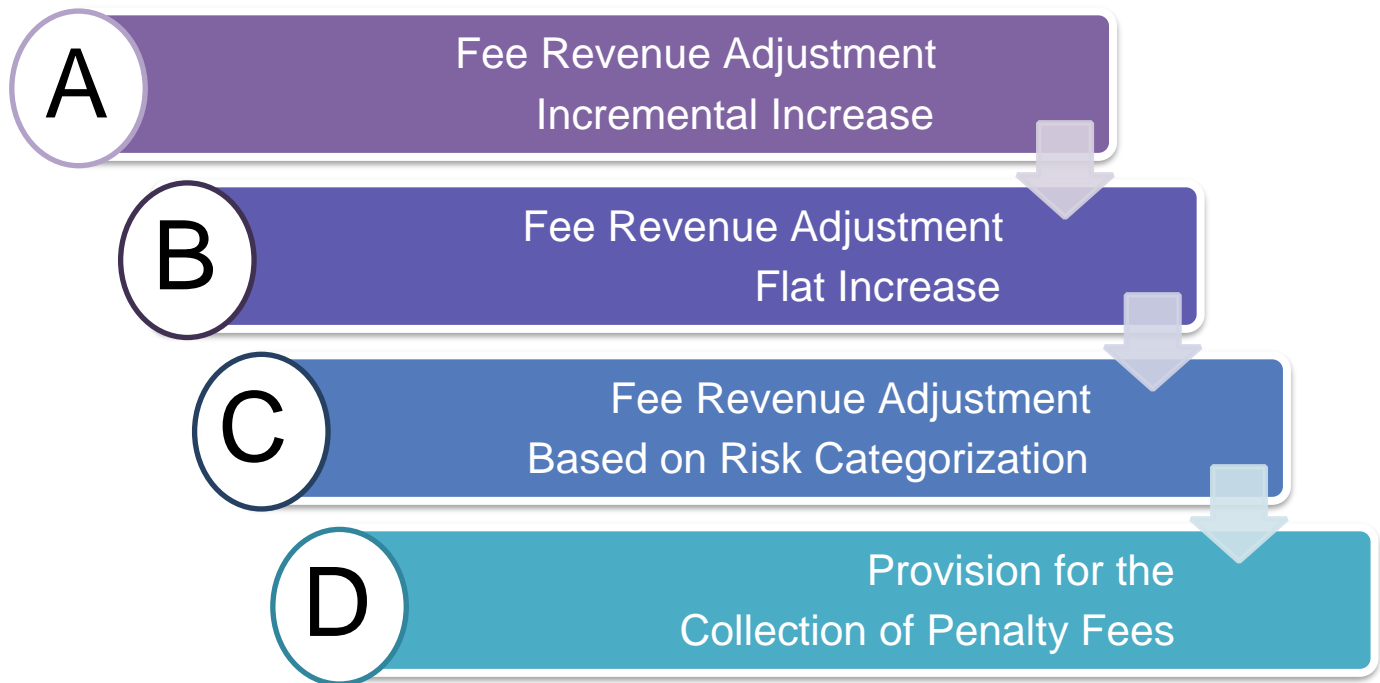
Number of Plan Reviews	Average Time Plan Review	Rate of EHS Staff	Total Plan Review Cost
285	4 hours	\$30.39 per hour	\$34,644.60

Total Number of Inspections	Average Time for Data Entry per Inspection	Personnel Cost of Data Entry Per Inspection	Total Data Entry Cost
24,755	45 minutes	\$22.79	\$564,166.45

Total Number of Inspections	Average Time For Inspection of Large Food Establishments	Per Inspection Rate of EHS Staff	Total Cost Inspection Time
24,755	1 hour : 10 minutes	\$35.46 per inspection	\$877,812.30
Total Cost to Inspect Larger Establishments			\$1,476,623.35

Current Fee Schedule	Total Large Food Establishments	Total Recoupment Under Current Fee Schedule
\$40.00	5,713	\$228,520

The following flexible fee schedule policy options would apply to all food establishments in lieu of the development of a fee structure based on number, size or type:



Option A. Fee Revenue Adjustment Incremental Increase

Proposal to increase permit fee revenues over the course of five years in increments of \$39.60 per year until the total proposed fee increase of \$238¹⁴ is reached.

FY 2019 – \$40.00 fee + \$40.00 increase (100%) = \$80

FY 2020 – \$80.00 fee + \$40.00 increase (50%) = \$120

FY 2021 – \$120.00 fee + \$40.00 increase (33%) = \$160

FY 2022 – \$160.00 fee + \$40.00 increase (25%) = \$200

FY 2023 – \$200.00 fee + \$38.00 increase (19%) = \$238

Option B. Fee Revenue Adjustment Flat Increase

Proposal to increase permit fee revenues from the current fee schedule of \$40 to \$238.00 immediately upon approval of the 2019 Appropriation Act.

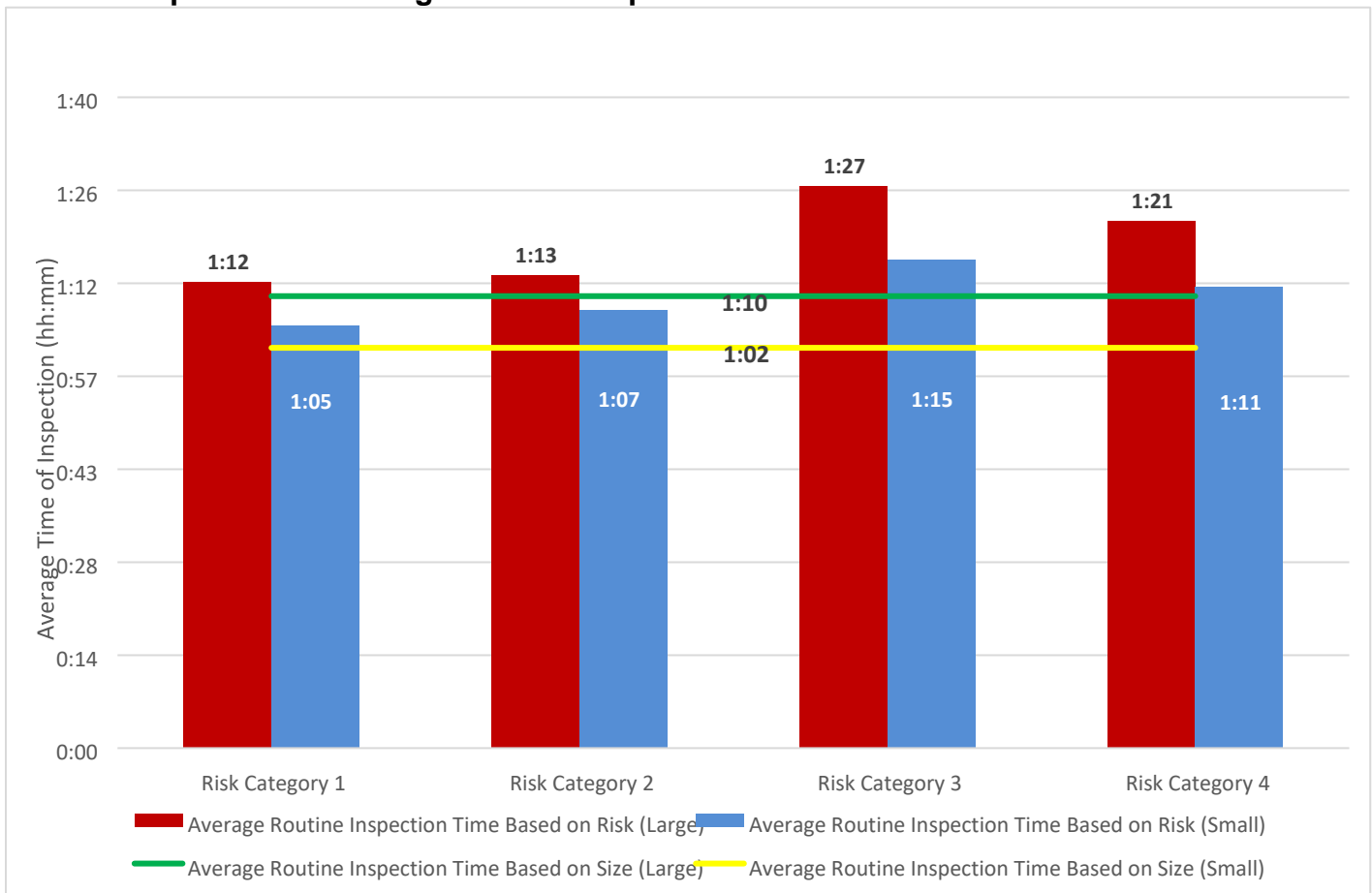
¹⁴ Dividing the total budget of \$20,770,105 among the total number of food establishments (29,146) would equate a cost of \$712.62 per food establishment. One-third of the cost per food establishment is \$237.54.

Option C. Fee Revenue Adjustment Based on Risk Categorization Proposal as a policy option to adopt the following fee schedule based on risk categorization, also referred to as type, of the food establishment:

- Risk Categorization 1 (23% of the total food establishment population): \$150
- Risk Categorization 2 (42% of the total food establishment population): \$225
- Risk Categorization 3 (26% of the total food establishment population): \$300
- Risk Categorization 4 (9% of the total food establishment population): \$375

The staggered approach by risk category represents an average of \$238 per establishment, which constitutes approximately 1/3 of the total revenue required to administer and implement the Food Regulations.

Comparison of Average Routine Inspection Times Based on Risk Characterization



Option D: Provision for Collection of VDH Penalty Fees

The Food Regulations require staff to complete an inspection prior to the renewal of a food establishment permit. In some instances, local health department staff are “rushed” by the renewing food establishment to conduct an inspection because the establishment

submitted a renewal request after their current permit had expired. Such requests result in a reallocation of staffing and workforce, causing delays, which result in overtime expenditures, reduction of inspections being conducted on time pursuant to statutory mandates, and delays of inspections for other establishments. Based on a sample size of the total food establishment population, an assessment of a gradually increasing monetary late fee could amount to \$240,475 in additional revenue. Food establishments with outstanding fees greater than 90 days would be required to submit a new permit and plan review application and fee.

Late Fee Assessment Schedule

Total Number of Food Establishments	Number of Food Establishments 1-30 days late	Number of Food Establishments 31-60 days late	Number of Food Establishments 61-90 days late	Number of Food Establishments 90+ days late
29,146	2,623	1749	1166	583

Days Late	# of Food Establishments Late	Proposed Late Fee Assessment	Total Late Fee Revenue
1-30	2,623	\$25	\$65,575
31-60	1,749	\$50	\$87,450
61-90	1,166	\$75	\$87,450
Total:			\$240,475

Upon review of the resources available regarding the VDH Restaurant Inspection Program, to include staffing and funding, VDH is not seeking additional general fund resources at this time. While trends point to a steady increase in the number of permitted facilities over the next few years, VDH is proactively utilizing and developing tools to manage resources efficiently, without immediate need to adjust funding.

Options for Legislative Change

Currently, the VDACS Food Safety Program has no efficient, effective, or formalized way to account for food establishments that open for business because the agency does not have clear statutory authority to issue permits to these businesses. Time expended by Food Safety Specialists attempting to locate food establishments renders the entire program less efficient. Although alternate methods of permitting establishments are currently being examined in consultation with the Office of the Attorney General, a legislative change could grant VDACS clear authority to issue permits to food establishments.

Currently, establishments under the jurisdiction of VDH are issued permits. As noted, those under the jurisdiction of VDACS are not. This has caused confusion within the food industry. Providing clear authority to the VDACS Food Safety Program would eliminate confusion that currently exists within the industry regarding permitting establishments and

will harmonize the process utilized by both Departments regarding the issuance of an appropriate document validating that the new and/or existing establishment has permission from the regulatory authority to conduct a food business.

Stakeholder Input

To inform the public that this study was occurring, the Departments posted notices on the Virginia Regulatory Town Hall website. This posting explained the study, provided points of contact, and allowed for public comment. Only a few comments were received on the Departments public comment forums. Those comments are addressed in this study.

In addition, a public meeting was held with relevant stakeholders in order to obtain their input regarding the acquisition of fiscal resources to allow the Departments to adequately monitor the food supply. Input from the stakeholders included suggestions regarding increasing general funds to obtain additional fiscal resources. However, some stakeholders expressed concerns regarding increasing general funds and the effects of that increase on the taxpayer. Responses were also received regarding increasing annual food establishment fees to support food regulatory programs in order for the food industry to bear the cost of doing business in lieu of the taxpayer. In general stakeholders seemed supportive of the development of a system to provide adequate funding to food safety programs to ensure industry education and to protect public health.

Part IV

Summaries

VDACS Food Safety Specialists regularly interact with the industry and provide valuable services that include in-depth inspection and evaluation of food establishments, the dissemination of information regarding how to effectively prevent foodborne illnesses, and assistance and education necessary to enable food business owners to operate their businesses effectively and profitably. With enhanced staffing, Food Safety Specialists will be able to provide more timely assistance to those wishing to enter into the food business, thus creating a positive economic impact for the Commonwealth.

VDH is committed to carrying out a state-wide program for food safety to promote health and prevent disease through education, training, and regulation. This system is designed to work in partnership with the people who make the day-to-day decisions that actually determine food safety, the operators and employees of food service establishments, and state and local regulatory authorities. While VDH does not recommend additional general funds at this time in order to administer its Restaurant Inspection Program, special consideration to the current fee schedule is warranted to ensure long-term effectiveness.

Section 2: Program Unification Analysis

Dually responsible for protecting consumers from foodborne illness and ensuring the safety of food products introduced into commerce throughout the Commonwealth, the Departments have varying missions, organizational structures, and stakeholders in regards to administering their respective food safety programs.

Unification of the VDACS Food Safety Program and the VDH Restaurant Inspection Program would be both a complex and costly task. This venture would come with major challenges and necessitate additional resources to ensure adequate staffing and continuity of food safety program administration in the Commonwealth with limited interruption. There would be a significant expenditure of time, energy, and effort to combine the programs with no cost savings to either private industry or the General Fund. The cost of unifying the two programs is indeterminate, and the upfront and ongoing costs are likely to be significant, and would require additional resources for both agencies.

Regulatory and Statutory Change

Both VDACS and VDH share statutory and regulatory authority over food safety within the Commonwealth; however, the Code of Virginia (Code) bifurcates such authority leaving unification a complicated task.

Title 35.1 of the Code grants authority to VDH to promulgate regulations specific to restaurants as defined under Virginia law. Within Title 35.1 lie several exemptions to such authority, including facilities that are under the authority of VDACS, such as grocery stores and home processing operations. Conversely, Title 3.2 Subtitle IV of the Code grants authority to VDACS over dairy, food and drink products that are manufactured, sold, exposed, or offered within the Commonwealth. This encompasses at least 45 different regulations, which VDH may not have the legal authority to enforce. Large-scale modifications to current Code language would be necessary to ensure proper legal authority is in place to provide oversight over any transferred programs.

Additionally, violations of the Virginia Food Laws (Title 3.2, Chapter 51) and regulations enforced by VDACS are criminal violations enforced through local courts. The VDH Restaurant Inspection Program administers enforcement through a permit program and relies on the Administrative Process Act (Section 2.2-4000 et seq.) to address violations. In order to maintain due process as required by law, additional changes to statute or regulation would be necessary to address the process for handling violations under a unified program.

Lastly, VDH is required to conduct annual inspections of each food establishment within its purview (Code of Virginia § 35.1-22), while VDACS inspection frequency is based on risk. An integration of the VDACS Food Safety Program into the VDH Restaurant

Inspection Program would necessitate additional resources to meet inspection frequency as mandated by Code, or to change the Code to the requirement of an annual inspection.

As mentioned above, VDACS administers approximately 45 different regulations associated with the Virginia Food Laws. Upon ratification of Code changes needed for a unification of programs under VDH, these regulations would require substantial review and updating. Such a drastic change would require stakeholder input in order to ensure changes do not have a negative impact on other state agencies, small business, inter- and intrastate commerce, consumers, or regulators. It is estimated that a careful evaluation and implementation of any amendments to state law and regulations would require a process of at least four years to ensure seamless unification with minimal impact on business.

Resources

Training

The VDACS Food Safety Program staff and the VDH Restaurant Inspection Program staff have considerable differences in job duties. VDH Environmental Health Specialists not only have regulatory oversight of restaurants, which range from traditional 'brick and mortar' facilities and mobile food units to food service at public schools, correctional facilities, and hotels; but these staff conduct other non-food related environmental health duties such as issuance of permits and inspection of onsite sewage systems, swimming pools, and tourist establishment inspections. The food safety operations overseen by VDH primarily consists of environments where food is prepared for immediate individual consumption. The food safety risks associated with a restaurant environment are at times significantly different than the food safety concerns in a manufacturing environment. Although VDACS Food Safety Specialists do provide regulatory oversight to retail food stores and similar establishments, a significant portion of their duties and responsibilities are directed towards food manufacturers, such as food canneries, bakeries, bottlers, breweries, and a wide variety of additional food processors including home manufacturers. The technical knowledge, required as well as the associated regulatory knowledge, are quite extensive and different for these types of establishments. There are extensive state and federal regulations and requirements associated with food manufacturing, which are not applicable to the retail restaurant environment and vice versa. As noted, inspections of manufactured foods establishments are often technologically complex and require significant amounts of time. Many of the processes occurring at food manufacturers are highly hazardous in nature and if the specific process parameters are not adhered to, foodborne illness or death could result if the product is consumed by the public. The inspection of these manufacturers requires highly specialized training with respect to process evaluation, process implementation and controls as well as hazard analysis.

Database and Technology Expenses

A significant amount of time and effort would be required to ensure the transfer of information relative to food safety to a singular database. In April of 2018, VDH initiated development of a new environmental health database (EHD) that includes enhanced

features related to data collection, improved productivity through “real time” functionality, and expanded reporting capabilities. VDH will expend over one million dollars upon implementation of the database and any additional expansion would be a costly endeavor with no funding allocated to complete the task. There would be upfront costs with the creation of new inspection forms to capture inspectional data and violations at each type of specialized food manufacturer. There will also be additional costs for the unification and/or transfer process of establishment information from VDACS inventory of firms. There will also be costs to the Commonwealth to procure additional hardware such as computers and software for incoming VDACS personnel. Database transfer for the purposes of unification would be an estimated one- to two-year endeavor.

Staffing and Relocation / Reorganization Costs

The VDACS Food Safety Program exists with minimal layers of management, and those managers and their training and expertise in food manufacturing would be needed within VDH to provide the necessary oversight to a program that would include the inspection of food manufacturers. Acquisition of the VDACS Food Safety staff would increase the number of personnel within the VDH Restaurant Program by approximately 30 percent. VDH EHS staff are located within the various health districts throughout the state; this may require VDACS staff to relocate to health districts in need of food safety staff. Integration of each agency’s management and administrative personnel, whose knowledge, skills, and abilities may not directly correspond with each other, would also prove to be a challenge. Issues relative to management and reporting structures will also prove to be a difficult challenge. VDACS operates from a central office where management, program directives and information disseminated to field staff flow outward from that operating structure.

Attention would need to be directed as to how to properly unify the management structure of both organizations. Additional managers would be required by VDACS, as the potential acquisition of over 100 VDH personnel would significantly increase the size and scope of the program. Incoming management personnel would require training on retail and specialized food manufacturing inspections that would be conducted by staff, as well as training on dietary supplements. It would be a challenge for the VDACS Food Safety Program to provide the training necessary for more than 100 incoming VDH management and inspection staff in a short time period.

In addition, the transfer or merger of staff is further complicated, as many Environmental Health Specialist positions are not associated solely with the restaurant inspection program. Environmental Health Specialists are responsible for administering standards related to the inspection of and issuance of permits for onsite sewage disposal systems, alternative discharging sewage treatment systems, vector control, hotels, campgrounds, summer camps, migrant labor camps, in addition to the restaurant inspection program. Staff transfer could result in a workforce shortage within VDH to adequately govern critical environmental health programs through the Commonwealth.

Unification Budget Overview

Virginia Department of Agriculture and Consumer Services

VDACS Food Safety Program general fund support has operated with a shortfall over the past four fiscal years. This program is supplemented by the agency's FDA Food Contract. While this contract maintains a cash balance that can continue to support general fund deficits in the short-term, the contract expenditures have exceeded revenue over the past two years, lowering the contract cash balance each year. The program budget is also supplemented by non-general fund fee revenue. In fiscal year 2019, the program resources were exceeded, and VDACS Food Safety Program funds were supplemented by other agency resources.

Additionally, the Food Safety program provides support to the agency's centralized administrative functions through federal indirect cost recovery and nongeneral fund administrative support recovery. Removing food inspection activities would create an administrative funding shortfall that cannot be absorbed.

VDACS Food Safety Financial Summary

VDACS Food Safety Financial Summary	FY2019	FY2018	FY2017	
General Fund Appropriation	2,822,637	2,776,359	2,665,138	
General Fund Expenditures	2,920,501	2,824,411	2,906,021	
<i>Personal Service Expenditures-General Fund</i>	<i>2,141,233</i>	<i>2,122,927</i>	<i>2,088,517</i>	
<i>Non-personal Service Expenditures-General Fund</i>	<i>779,268</i>	<i>701,484</i>	<i>817,503</i>	
General Fund Balance	(\$97,864)	(\$48,052)	(\$240,883)	A
FDA Contract Revenue	287,057	335,577	360,900	
FDA Contract Expenditures	343,587	341,795	166,204	
<i>Personal Service Expenditures- Contract</i>	<i>300,000</i>	<i>300,000</i>	<i>126,091</i>	
<i>Non-personal Service Expenditures-Contract</i>	<i>43,587</i>	<i>41,795</i>	<i>40,113</i>	
Net Contract Cash	(\$56,530)	(\$6,218)	194,696	B
Food Inspection Non-General Fund (Fees)	370,660	367,500	379,184	
Food Inspection Non-General Fund Expenditures	363,796	297,112	335,459	
<i>Personal Service Expenditures- NGF</i>	<i>342,366</i>	<i>285,946</i>	<i>318,744</i>	
<i>Non-personal Service Expenditures-NGF</i>	<i>21,431</i>	<i>11,165</i>	<i>16,715</i>	
Net Cash NGF Cash	\$6,864	\$70,388	\$43,726	C
Total Annual Balance	(\$147,530)	\$16,118	(\$2,461)	A+B+C

VDACS Food Safety Administrative Cost Recoveries

VDACS Food Safety Administrative Cost Recoveries	FY2019	FY2018	FY2017
Agency Administrative Recovery from Contract	124,770	90,567	109,892
Administrative NGF Support Recovery	32,265	42,398	38,246
Total Administrative Support	\$157,035	\$132,965	\$148,138

Virginia Department of Health

The VDH Restaurant Inspection Program receives funding from two sources: (1) the general fund and (2) locality match funds.

As part of the unification process, general fund support would likely transfer to VDACS upon ratification of a budget amendment and any additional statutory changes. The general fund appropriation makes up approximately half of the funding required to administer the restaurant inspection program and local government match funding, under cooperative agreements with VDH, makes up the other half. To transfer the restaurant inspection program to VDACS, which does not operate under cooperative agreements with localities, would require replacement of approximately \$6 million with general fund support, grants, or other nongeneral funds. In addition, the transfer or merging of budgets is further complicated, as many Environmental Health Specialist positions are not associated solely with the restaurant inspection program. Local match funding covers other environmental health programs such as rabies response, hotels, campgrounds, and migrant labor camp regulatory oversight. The grand total outlined below represents portions of many full time equivalent positions across the state as well as administrative and management costs of the program.

VDH Restaurant and Food Safety Expenditures

FY19 VDH Restaurant and Food Safety Expenditures		
	Fund Name	Amount
	General Fund	6,444,347.23
	100% Locality Funding	210,882.45
	Local Health District Match Revenue	4,296,231.48
	Local Health District Service Fee (Program Income)	1,084,263.25
Grand Total		12,035,724.41
	Costs less program income	10,951,461.16

As mentioned previously, in fiscal year 2019, VDH revised internal processes to create unique identifiers to distinguish between ‘Restaurant and Food Safety,’ ‘Well and Septic Permitting,’ and ‘Other Environmental Health Services. Prior year data specific to the restaurant inspection program is not available in the same format as listed above.

In addition to general fund and locality match revenue, unification would involve grant funding.

The FDA contracts with state-level Food Safety Programs throughout the nation to perform inspections of food and dietary supplement manufacturers and food warehouse distributors. The VDACS Food Safety Program has a long-standing positive relationship with this federal agency and contracts with the FDA to perform establishment inspections in Virginia. For these contract-related activities, the FDA provides funds to VDACS at a level of \$400,000 annually. Additionally, the FDA provides the Food Safety Program with \$525,000 in grant funds to establish and coordinate programs that ensure uniform inspection standards and programs to specifically address and mitigate the effects of foodborne illnesses. Integrating the VDACS Food Safety program with VDH would not guarantee FDA grant funding for the aforementioned food safety functions would transfer with it to VDH, leaving a funding deficit. This grant funding allows regulatory, industry, academia, and consumer groups to collaborate to improve systems for detecting food borne illness, discuss vulnerabilities in our food supply, and improve response to outbreaks without expense to the state.

There could also be an impact on the food industry currently under the VDACS Food Safety Program's purview because VDH localities could impose additional fees to this industry that pays only one \$40 fee to VDACS.

Summary of Program Unification Analysis

Unification is not likely to result in a cost savings and could ultimately result in increased costs to deliver the same level of services currently provided by both agencies independently. Unification would result in additional levels of duties, tasks, and responsibilities for both managers and field staff. These additions would result in a dilution of Food Safety and Environmental Health Specialist specificity, which may ultimately lead to a reduction in the level of food safety oversight currently provided by both programs independently. Both agencies, via an ongoing MOU as well as regular meetings, structure inspections of establishments to ensure minimal duplication. This approach ensures efficient and effective utilization of resources by both agencies. Enhancing the level of food safety in the Commonwealth is best accomplished through the acquisition of funds adequate to provide sufficient resources necessary to ensure comprehensive oversight of retail food establishments and ensure the safety of the food supply in the Commonwealth.

Comparison Factor	Virginia Department of Agriculture and Consumer Services	Virginia Department of Health
Inspection Type	Food manufacturers, retailers and food storage facilities, dietary supplements	Restaurants-food preparation and food service
Inspection Ratio	Risk Basis	Annually
Funding	Centralized - (general fund, non-general fund, and contract revenue received by state)	Centralized - (general fund, non-general fun, and locality funds)
Office	Home based	Office based
Integrate Data into Uniform Software	VDACS (VIPERS)	VDH (EHD)
Enforcement	Local Court	Permit Program