



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) citation</b>	2 VAC 5-600
<b>Regulation title</b>	Regulations Pertaining To Food For Human Consumption
<b>Action title</b>	Adopt by Reference revised and new documents from the Code of Federal Regulations
<b>Final agency action date</b>	
<b>Document preparation date</b>	February 9, 2011

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The final regulation adopts by reference revised and new sections of Title 21, Chapter 1 of the Code of Federal Regulations.

- The revised and updated sections of Title 21, Chapter 1, Subchapter A, Code of Federal Regulations that are being readopted are as follows: Parts 73(Subpart A), 74(Subpart A), 81, 82(Subpart B).
- The revised and updated sections of Title 21, Chapter 1, Subchapter B, Code of Federal Regulations that are being readopted as follows: Parts 100, 101, 102, 104, 105, 109, 110, 111, 113, 114, 129, 133, 136, 137, 139, 145, 146, 150, 152, 155, 156, 158, 160, 161, 163, 164, 165, 166, 168, 169, §170.19, 172, 173, 174, 175, 176, 177, 178, 179, 180 (Subpart B), 181, 182, 184, 186, 189.

- Additionally, Parts 120 and 123 are being adopted from Title 21, Chapter 1, Subchapter B, Code of Federal Regulations.
- The revised Section 1240.61 from Title 21, Chapter 1, Subchapter L, Code of Federal Regulations is also being readopted.
- Part 180 of Title 40, Chapter 1, Subchapter E, Code of Federal Regulations is also being readopted.

These parts and sections are being incorporated by reference to reflect updated food safety standards as set forth by the Code of Federal Regulations. Parts 120 and 123 are being adopted to address food safety concerns relating to juice and seafood production and distribution. Adoption and re-adoption of all of these parts and sections will allow for appropriate regulatory oversight and will allow the agency to properly address the risks and hazards associated with food products and food establishments thus enhancing the safety of the food supply in the Commonwealth.

Statutory Authority and Exemption from Administrative Process Act

The Commissioner of Agriculture and Consumer Services is authorized by § 3.2-5121 of the Code of Virginia (1950), as amended, to adopt any regulation under the federal act without public hearing. Such regulation shall be effective upon filing with the Registrar of Regulations. The Board, at its next regular meeting, shall adopt the regulation after notice but without public hearing unless a petition is filed.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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The Commissioner of Agriculture and Consumer Services adopted final regulation 2 VAC 5 – 600, Regulations Pertaining To Food For Human Consumption on February 22, 2011.

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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The impact of the proposed regulatory action on the institution of the family and family stability is from the perspective of foodborne illness and availability of safe food for the consumer. It is based, in part, on providing practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness. It is a goal of all government food safety agencies within the United States to reduce the incidence of foodborne illness and ensure that foods available to consumers are safe to consume. Ensuring the safety of the food supply and reducing the level of foodborne illness have direct impacts on the family and family stability by positively affecting a family’s disposable income, improving family health,

reducing medical care costs, reducing absences from the work place, and reducing mental, physical and emotional pain and suffering.