



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

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## MEMORANDUM

**To:** Steven W. Sturgis  
President  
Board for Agriculture and Consumer Services

Sandra J. Adams  
Commissioner  
Virginia Department of Agriculture and Consumer Services

**From:** James M. Flaherty  
Assistant Attorney General

**Date:** September 24, 2014

**Subject:** Letter of Assurances for Amendments to reflect the 2013 FDA Food Code, 2 VAC 5-585 *et seq.*

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I have reviewed the Board for Agriculture and Consumer Services' proposed Amendments to reflect the 2013 FDA Food Code, 2 VAC 5-585 *et seq.* that sent to my office via electronic mail on July 30, 2014. In my view, as counsel to the Department of Agriculture and Consumer Services, the Board may promulgate these regulations pursuant to Title 3.2, Chapters 1 and 51 of the *Code of Virginia*. The regulations do not appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect. Further, these amendments are exempt from the requirements of the Virginia Administrative Process Act, pursuant to § 3.2-5121 of the *Code of Virginia*.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.