



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Darrell W. Kuntz, III
Assistant Attorney General

TO: Julie Henderson
Director of the Office of Environmental Health Services

DATE: April 19, 2024

RE: Letter of Assurance for Amended Regulations – Amendments to Food Code
Regulations — 12 VAC 5-421 *et seq.*

Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the individual staff member providing it.

I have reviewed the Virginia State Board of Health’s (the “Board”) proposed amendments to the Food Code found at 12 VAC 5-421 *et seq.* As counsel for the Board, I am of the opinion that the Board may amend the Food Code pursuant to the authority granted at Va. Code § 35.1-11 and Va. Code § 35.1-14. These amendments qualify for fast-track regulatory action under Va. Code § 2.2-4012.1 because they are not controversial.

The amended 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.

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 amended regulations.