



COMMONWEALTH of VIRGINIA
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MEMORANDUM

To: Pamela Miles
Program Manager
Office of Dairy and Foods
Virginia Department of Agriculture and Consumer Services

From: Justin I. Bell
Assistant Attorney General

Date: June 4, 2026

Subject: Amendments to adopt the U.S. Food and Drug Administration's 2023 Pasteurized Milk Ordinance by reference, 2 VAC 5-490.

I have reviewed the Board of Agriculture and Consumer Services's proposed regulatory action to adopt the U.S. Food and Drug Administration's 2023 Pasteurized Milk Ordinance by reference of found at 2 VAC 5-490. In my view, as counsel to the Board of Agriculture and Consumer Services, the Board may proceed pursuant to § 3.2-5121 of the *Code of Virginia*. Section 3.2-5121 also permits the Board to adopt any regulation under the Food, Drug, and Cosmetic Act notwithstanding the Administrative Process Act. The regulations do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any 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 regulations.