

MEMORANDUM OF UNDERSTANDING  
Between  
The Virginia Department of Health  
and  
The Virginia Department of Agriculture and Consumer Services

MILK, FROZEN DESSERTS AND  
FOOD SANITATION PROGRAM

Statutory Authority

This agreement is established with reference to the Virginia Standards of Quality, Grading, Sanitary Standards, Etc. law (Virginia Code Sections 3.1-530.1 through 530.9), the Virginia Ice Cream and Similar Products law (Sections 3.1-562.1 through 562.10), the Virginia Food laws (Sections 3.1-361 through 419), and the Rules and Regulations adopted by the Virginia Board of Agriculture and Consumer Services pursuant to these laws.

Purpose

Certain dairy and food related laws assign specific responsibilities to the Virginia Department of Health (VDH) and the Virginia Department of Agriculture and Consumer Services (VDACS) to govern the handling, processing or sale of various milk and food products. Products regulated by the separate agencies may be handled or processed in the same plant or establishment thus creating a possibility for some duplication of work. To eliminate as much duplication of effort as possible, a cooperative program between VDH and VDACS is established by this Memorandum of Understanding.

In order to ensure that this agreement can be implemented, VDH and VDACS recognize that there are four major areas of regulatory responsibility in a milk, frozen desserts and food sanitation program. These are: (1) raw milk production for pasteurization (2) milk, and milk product processing and packaging for distribution to include those milk and milk products plants processing imitation milk, fruit juices, fruit beverages, tea and bottled water, etc. (3) frozen desserts processing and packaging for distribution (4) frozen desserts processed at retail establishments for consumption. The following agreement outlines responsibilities assigned to each agency in accordance with these four areas.

I. Standards of Quality, Grading, Sanitary Standards, Etc., Law.

A. Primary Responsibilities

Chapter 21, Article 3.1, Sections 530.1 through 530.9 divides the regulatory responsibilities for the

production, processing and sale of Grade "A" milk and milk products between VDH and VDACS.

B. Permits and Inspection Services

VDH will issue permits to all Grade "A" milk processing plants which offer milk and or milk products for sale in Virginia. VDACS will issue permits to all Grade "A" dairy farms and all receiving and transfer stations handling raw milk in Virginia. VDACS will issue permits to all plants or establishments processing ice cream and frozen desserts or other manufactured dairy products which are not an integral part of a Grade "A" milk plant. VDH will be responsible for all inspection services in each Grade "A" milk plant located in Virginia except Valley Milk Products, Strasburg, Virginia and as noted in paragraph C., below.

C. Point of Delivery

VDH will be responsible for the inspection of Grade "A" milk plants including physical facilities of the milk receiving rooms. VDACS will be responsible for the inspection of milk tank trucks and their appurtenances including cleaning practices and procedures which apply to the milk tank truck. All planned or required changes in milk plant receiving room cleaning-in-place systems or cleaning and sanitizing procedures will be reviewed by both agencies and approval will be made by VDH.

D. Sampling and Testing

VDACS has primary responsibility for the collection of raw milk samples from the producer dairies. VDH will collect samples of raw milk for pasteurization from each milk plant after unloading from delivery vehicles. All necessary laboratory examinations of samples of milk, milk products, and water will be performed in laboratories that have been certified by the agency designated for such purposes. Where certification is not under the jurisdiction of any official agency, tests will be performed by methods and laboratories approved by the State. A copy of each raw milk warning or suspension letter will be sent to VDACS. VDACS may collect and examine for chemical residue or other adulteration, such samples of pasteurized milk and milk products as it deems necessary. VDACS will notify VDH when there is a violation.

E. Interstate Milk Shippers Ratings

VDH Certified State Milk Rating Officers will conduct

milk ratings on all Interstate Milk Shippers within the Commonwealth of Virginia.

## II. Ice Cream and Similar Products Law

The Commissioner of Agriculture and Consumer Services and his agents are charged with administering and enforcing all regulations adopted under the Ice Cream and Similar Products law; however, to prevent unnecessary duplication of effort and to ensure that each establishment will be inspected by one regulatory agency, the following is agreed:

### A. Permits

VDH will initiate the issuance, suspension, reinstatement and revocation of permits for all frozen desserts plants which are an integral part of any premises including Grade "A" milk plants, hotels, restaurants, and mobile units where frozen desserts are frozen or partially frozen or dispensed for sale at retail normally permitted by VDH pursuant to Sections 35.1-1 through 35.1-26. VDH shall issue a permit to food service establishments under Sections 35.1-1 to -26 and Section 3.1-562.6 of the Code of Virginia.

VDACS will initiate the issuance, suspension, reinstatement and revocation of permits for frozen desserts plants which do not qualify for a permit issued by VDH. VDACS shall issue a permit to these establishments under the provisions of Section 3.1-562.6 of the Code of Virginia. Also, the VDACS will issue a permit to all out-of-state firms who desire to manufacture ice cream and similar products, including mix, for sale in the Commonwealth of Virginia.

### B. Inspections

VDH will inspect all places or premises permitted by VDH as often as necessary to insure compliance with all applicable laws, rules and regulations. VDACS will inspect all places permitted by VDACS as often as necessary to insure compliance with all applicable laws, rules and regulations, including Section 7.1 of VR 115-05-03.

### C. Sampling and Testing

VDH will be responsible for the regular collection and analysis of samples from places permitted by VDH as often as necessary to insure compliance with all applicable laws, rules and regulations. VDACS will be responsible for regular collection and analysis of samples from

places permitted by VDACS as often as necessary to insure compliance with all applicable laws, rules and regulations.

### III. Chapter 20, Food and Drink Generally

The Commissioner of Agriculture and Consumer Services and his agents are charged with administering and enforcing all regulations adopted pursuant to the Virginia food laws. However, to prevent unnecessary duplication of effort the following is established:

#### A. Permits

Grade "A" processing plants which are permitted under the Virginia Standards of Quality, Grading, Sanitary Standards, Etc. law will not be required to have additional permits when fruit juices, fruit drink, imitation milk, tea and bottled water are an integral part of the processing operation.

#### B. Inspections

VDH will inspect all such places as listed in Paragraph A. as often as necessary to insure compliance with all applicable state and federal laws, rules and regulations.

#### C. Sampling and Testing

Whenever inspectional findings or other occurrences indicate the need for the collection of samples VDH will request the assistance of VDACS and the two agencies will jointly collect the sample(s) with VDACS assuming the lead role. The results of samples collected under this agreement will be shared by both agencies.

#### D. Compliance Provisions

If a plant is found during VDH inspection to be in significant violation of the Virginia food laws and does not voluntarily comply by the first follow-up inspection, VDH will notify VDACS, providing all supporting documentation, and the two agencies will, to the extent of their respective authority, jointly initiate appropriate regulatory action under Chapter 20, Sections 3.1-361 through 3.1-419, Code of Virginia, and regulations promulgated under those statutes. VDACS will have primary responsibility during compliance proceedings.

E. Complaints

All complaints received by VDACS regarding products processed in a Grade "A" milk plant will be forwarded to VDH for investigation. A copy of the complaint investigation by VDH regarding products subject to VDACS' regulations will be forwarded to VDACS.

F. Training

In order to ensure a more uniform enforcement of the Virginia food laws and related regulations VDACS will conduct, in cooperation with the VDH Division of Sanitarian Services, a training session for sanitarians who will be inspecting under the provisions of this memorandum. The training session will cover all aspects of inspecting non-dairy beverage manufacturers. Additional training sessions will be conducted on an as needed basis as determined by post training evaluation and as mutually agreed upon by the Chief, Bureau of Food Inspection, VDACS and the Director of Milk Sanitation, VDH.

G. Evaluation

The effectiveness of the training provided in paragraph F. will be evaluated by a program of joint inspections of firms subject to this memorandum. The joint inspection will be conducted by a VDH sanitarian and a VDACS inspector. The inspection will primarily cover products and processes subject to this memorandum. The VDH sanitarian shall be the lead representative, the VDACS inspector will observe. Additional details of the evaluative process, including the frequency of joint inspection, will be arranged between the Chief, Bureau of Food Inspection, VDACS and the Director of Milk Sanitation, VDH. Information obtained from the evaluative process will be utilized to strengthen activities subject to Part III of this memorandum.

H. Information Exchange

VDH will maintain a current inventory of firms subject to Part III of this memorandum. A current inventory of firms will be relayed to VDACS at least once a year along with documentation that the firms are in compliance with applicable laws and regulations. A current inventory of each firms' non-dairy beverage product labels will be provided to VDACS by VDH. This list will be updated as necessary. VDACS will maintain an inventory of applicable laws and regulations and shall make them available to VDH. VDACS shall immediately notify VDH of

any changes in the laws or regulations. VDACS shall provide advice and guidance to VDH in the interpretation and application of the laws and regulations governing products and firms covered by Part III of this memorandum.

IV. Agreement and Consent

This agreement shall be effective upon the signature of the State Commissioner of Agriculture and Consumer Services and the State Health Commissioner, and shall remain in effect until modified or terminated by mutual agreement of the agency heads. This Memorandum of Understanding supersedes all previous versions.

Either agency may terminate their participation in this agreement by notifying the other of their intent thirty days prior to such termination.

This memorandum of understanding is for the purpose of facilitating cooperation between two agencies of the Commonwealth. It does not intend to create, nor does it create, any rights in any third party.

S. Mason Carbaugh  
S. Mason Carbaugh  
Commissioner  
Virginia Department of  
Agriculture and Consumer Services

Date 11/5/90

C. M. G. Buttery  
C. M. G. Buttery, M.D., M.P.H.  
State Health Commissioner  
Virginia Department of Health

Date 10/27/90