



# COMMONWEALTH of VIRGINIA

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## MEMORANDUM

**To:** William Bosher, Chair  
Pesticide Control Board  
Virginia Department of Agriculture and Consumer Services

Liza Fleeson, Executive Secretary  
Pesticide Control Board

Perida Giles  
Virginia Department of Agriculture and Consumer Services

**From:** Steven P. Jack  
Assistant Attorney General

**Date:** May 7, 2010

**Subject:** Statement of Authority for Proposed Amendments to Pesticide Control Board Regulations, 2 VAC 20-51 et seq.

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I have reviewed the Pesticide Control Board's proposed amendments to the Regulations Governing Pesticide Applicator Certification, 2 VAC 20-51 *et seq.*, particularly 2 VAC 20-51-60, which exempt certain governmental employees from the applicator certification requirements of the Virginia Pesticide Control Act when using certain pesticides to prevent immediate personal harm from stinging or biting insects. In my view, as counsel to the Virginia Department of Agriculture and Consumer Services, the Board has the authority to propose such amendments pursuant to §§ 3.2 – 3921 and - 3931 of the *Code of Virginia*, and the proposed amendments 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.

Further, the adoption of these proposed amendments are exempt from the procedures of the Virginia Administrative Process Act pursuant to § 2.2 – 4006.A.6 of the *Code of Virginia* if the Board considers the amendments at the proper public meetings required pursuant to that section.

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 amendments.