



COMMONWEALTH of VIRGINIA

Office of the Attorney General
Richmond 23219

Kenneth T. Cuccinelli II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804 - 786 - 2071
804 - 225 - 4541 TDD

MEMORANDUM

To: Matt Lohr
Commissioner
Virginia Department of Agriculture and Consumer Services

Paul W. Rogers, Jr.
President
Virginia Board of Agriculture and Consumer Services

From: Steven P. Jack
Assistant Attorney General

Date: April 9, 2010

Subject: Memorandum of Authority for Proposed Regulations for the Application of Fertilizer to Non-Agricultural Lands, 2 VAC 5-405 *et seq.*

I reviewed the proposed Regulations Pertaining for the Application of Fertilizer to Non-Agricultural Lands, 2 VAC 5-405-10 *et seq.*, by the Board of Agriculture and Consumer Services (hereinafter "Board"), as posted on the Virginia Townhall Internet site on May 19, 2010. In my view, as counsel to the Virginia Board of Agriculture and Consumer Services, the Board has authority to promulgate these regulations, pursuant to §§ 3.2-3601 and 3.2-3602.1 of the *Code of Virginia*.

The proposed 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.

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.