



# COMMONWEALTH of VIRGINIA


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**MEMORANDUM**  
*VIA ELECTRONIC MAIL*

**TO:** Stephen W. Calhoun  
Regulatory Coordinator  
Department of Housing & Community Development

**FROM:** Thomas W. Nesbitt   
Assistant Attorney General

**DATE:** February 2, 2009

**RE:** Board of Housing and Community Development Amendments to Regulations Governing  
Virginia Energy Assistance Program's Weatherization Component (13 VAC 5-100)

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I have reviewed the Final version of the amendments to the regulations governing the weatherization component of the Virginia Energy Assistance Program, which staff for the Board of Housing and Community Development ("the Board") submitted to Virginia Regulatory Town Hall on January 30, 2009. In my view, as counsel to the Board, § 36-137(5) of the *Code of Virginia* ("Code") authorizes the Board to adopt these regulatory amendments. In addition, it is my opinion that, pursuant to Code § 2.2-4002(B)(4), the Board's adoption of these regulatory amendments is exempt from the requirements of the Administrative Process Act, Code §§ 2.2-4000 to -4031, because it constitutes agency action relating to "[g]rants of state or federal funds or property."