



COMMONWEALTH of VIRGINIA

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MEMORANDUM

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

Roy Seward
Virginia Department of Agriculture and Consumer Services

From: Steven P. Jack
Assistant Attorney General

Date: July 26, 2012

Subject: Memorandum of Authority for Proposed Regulations concerning Emerald Ash Borer Quarantine, 2 VAC 5-335 *et seq.*

I reviewed the proposed amendments to regulations concerning the Emerald Ash Borer Quarantine, 2 VAC 5-335-10 *et seq.*, by the Board of Agriculture and Consumer Services (hereinafter "Board"). In my view, as counsel to the Virginia Department of Agriculture and Consumer Services, the Commissioner may adopt this extension of the quarantine area, as defined in the regulations previously adopted by the Board for Agriculture and Consumer Services ("Board"), pursuant to the authority and procedures in § 3.2-703 of the *Code of Virginia*, including publication of notice of the extension in a newspaper having general circulation in the affected area and providing direct notice to any known affected persons. The Board must further review this

extension at its next regularly scheduled meeting, but not more than 90 days from the effective date of this extension pursuant to § 3.2-703 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.