



COMMONWEALTH of VIRGINIA

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MEMORANDUM

To: Stephen W. Calhoun
Regulatory Coordinator
Department of Housing and Community Development

From: Thomas W. Nesbitt
Assistant Attorney General

Date: July 31, 2008

Subject: Statement of Authority for Solar Energy Criteria for Tax Exemption Updates (13 VAC 5-200)

I have reviewed the Final version of the amendments to the regulatory criteria governing tax exemptions related to solar energy equipment that the Board of Housing & Community Development (“the Board”) submitted to Virginia Regulatory Town Hall on July 24, 2008. In my view, as counsel to the Board, the Board’s amendments are necessary to conform 13 VAC 5-200-10 & -40 through -80 to the statutory changes implemented by Chapter 253 of the 1988 Acts of Assembly, and no agency discretion is involved in making these changes. Therefore, in my opinion, the Board’s amendments of these regulations are exempt from the requirements of the Article 2 of the Administrative Process Act, pursuant to § 2.2-4006(A)(4)(a) of the *Code of Virginia*. It is also my opinion that the Board’s amendments to 13 VAC 5-200-100 are exempt from the requirements of Article 2 of the Administrative Process Act, pursuant to § 2,2-4006(A)(3) of the *Code of Virginia* because they consist only of changes in style or form.