



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

To: Paul Rogers
President
Board for Agriculture and Consumer Services

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: August 20, 2012

Subject: Statement of Authority for Proposed Adoption of Regulations Governing Pesticide Applicator Certification, 2 VAC 5-685 et seq.

I have reviewed the Board for Agriculture and Consumer Services' (hereinafter, "Board") proposed adoption of Regulations Governing Pesticide Applicator Certification, 2 VAC 5-685-10 *et seq.* In my view, as counsel to the Virginia Department of Agriculture and Consumer Services, the Board has the authority to propose such adoption pursuant to §§ 3.2 – 3906 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, adoption of the above Regulations is exempt from the provisions of the Virginia Administrative Process Act as stated in § 2.2-4006(A)(4)(a) of the Code of Virginia, pursuant to Chapters 803 and 835 of the 2012 Virginia Acts of Assembly [HB 1291/SB678].

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.