



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Pesticide Control Board
<b>Virginia Administrative Code (VAC) citation</b>	2VAC 20-51
<b>Regulation title</b>	Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act
<b>Action title</b>	Provides for an exemption from certification for certain government applicators using certain pesticides only for personal protection
<b>Final agency action date</b>	April 15, 2010
<b>Document preparation date</b>	April 28, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This regulatory change will exempt from the applicator certification requirements of the Virginia Pesticide Control Act certain governmental employees who utilize FIFRA 25 (b) minimum-risk pesticide products and any registered read-to-use pesticide products when the intended use of the products is to prevent immediate personal harm from stinging or biting insects.

This change was granted in response to a petition for rulemaking requesting that certain government employees who utilize FIFRA 25(b) minimum risk pesticide products be exempt from the applicator certification requirements of the Virginia Pesticide Control Act when the only intended use of those products is to prevent immediate personal harm from stinging or biting insects. The Pesticide Control Board granted the petitioner's request and expanded the exemption to include not only FIFRA 25(b) minimum-risk pesticide products but any registered ready-to-use pesticide products that would be suitable for personal protection.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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Under Section 3.2-3931 of the Virginia Pesticide Control Act the Pesticide Control Board may exempt by regulation "classes of persons...whose use or supervision of the use of pesticides can be accomplished with minimal risk to the public health and safety by virtue of the nature of the pesticides used or method of application of the pesticides."

Under the Administrative Process Act, Section 2.2-4006.A.6. "*Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing*" may be promulgated through the exempt process. The Board received the original petition at their July 16, 2009 quarterly meeting. The Board was updated on the status of the petition at their October 15, 2009 quarterly meeting. At their January 21, 2010 quarterly meeting, the Board reviewed comments from the publication of the petition for rulemaking and voted to grant the petition.

On April 15, 2010, following a public hearing on the petition, the Virginia Pesticide Control Board adopted as final the amendment to 2 VAC 20-51-60, exempting certain governmental employees from the applicator certification requirements of the Virginia Pesticide Control Act when using certain pesticides to prevent immediate personal harm from stinging or biting insects.

## Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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This regulatory action is not expected to have any impact on the institution of the family or family stability.