



# COMMONWEALTH of VIRGINIA

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## MEMORANDUM

**To:** Kathleen R. Nosbisch, Executive Director  
Board for Professional Soil Scientists and Wetland Professionals  
Department of Professional and Occupational Regulation

**From:** Elizabeth B. Peay  
Assistant Attorney General  
Counsel to the Auctioneers Board

**Date:** October 27, 2008

**Subject:** Letter of Assurance for Exempt Action Final Regulation 18 VAC 145-11 – Public Participation Guidelines

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I have reviewed the Exempt Action Final Regulation issued by the Board for Professional Soil Scientists and Wetland Professionals. In my view, as counsel to the Board, the Board may promulgate these regulations, pursuant to § 54.1-2200 of the *Code of Virginia*. The regulations do not appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect. In addition, these regulatory changes are exempt from the requirements of Virginia's Administrative Process Act (APA), Code of Virginia §2.2-4006 A.4.a because this regulatory change is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

This memorandum addresses legal matters only, is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed, regulations, and does not address, or express a position on, matters of public policy.