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MEMORANDUM

TO: David Paylor, Director
Virginia Department of Environmental Quality

FROM: Matthew L. Gooch
Assistant Attorney General

DATE: June 22, 2015

RE: Regulation for the Control of Motor Vehicle Emissions in the
Northern Virginia Area, 9VAC5 Chapter 91

Pursuant to Executive Order 17, I have reviewed the above-referenced amendments to regulations of the State Air Pollution Control Board. It is my opinion that the Board has the authority to adopt these amendments to the regulations based upon applicable law, including Article 1 of Chapter 13 of Title 10.1 of the Code of Virginia, and specifically, Code § 10.1-1308. The regulations do not exceed the Board's rulemaking authority.

It is further my opinion that the regulations are exempt from Article 2 of the Administrative Process Act pursuant to Code § 2.2-4006(A)(4)(a) as necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.