



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: Peter M. Marone, Director
Department of Forensic Science

FROM: Charles A. Quagliato
Assistant Attorney General

DATE: September 2, 2008

SUBJECT: Regulations Relating to Public Participation Guidelines (Final)
– 6 VAC 40-11-10, *et seq.*

In response to a request from the Department of Forensic Science, I have reviewed the regulations, 6 VAC 40-11-10, *et seq.*, relating to promulgation of new public participation guidelines. Chapter 321 of the 2008 Acts of Assembly (effective July 1, 2008) mandates that by December 1, 2008, agencies either adopt model public participation guidelines issued by the Department of Planning and Budget or if they need to make significant changes to the model guidelines, promulgate new public participation guidelines as fast-track regulations. Upon review of the aforesaid regulations, the Department of Forensic Science has adopted the model public participation guidelines issued by the Department of Planning and Budget, I am of the opinion that the amendments are exempted from Article 2 of the Administrative Process

Act pursuant to Virginia Code § 2.2-4006(A)(4)(a), as an agency action that is necessary to conform regulations to changes in Virginia statutory law where no agency discretion is involved.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.