



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Eric M. Lansing
Assistant Attorney General

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: December 22, 2022

RE: Review of Amendments to State Regulations to Incorporate Federal Documents by Reference (Rev. C22)
Primary: Article 5 (9VAC5-50-400 et seq.), 9VAC5-50
Secondary: 9VAC5-20-21; Article 1 (9VAC5-60-60 et seq.) and
Article 2 (9VAC5-60-90 et seq.)

Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the individual staff member providing it.

In response to a request from the Department of Environmental Quality, I have reviewed the above-referenced regulations of the Air Pollution Control Board.

The Air Pollution Control Board has the authority to amend its regulations. *See* Va. Code §§ 10.1-1308. After reviewing the proposed regulation, it is my opinion that the Air Pollution Control Board has the authority to amend the above-cited regulations.

Furthermore, these amendments are necessary to meet the requirements of federal law or regulations, and they do not differ materially from those required by federal law or regulation. Therefore, in my view, the proposed amendments are exempt from the requirements of Article 2 of the Administrative Process Act under Va. Code § 2.2-4006(A)(4)(c).