



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 4, 2023

RE: Federal Documents Incorporated by Reference (Rev. D23): Va. Admin. Code Title 9, Agency 5, Chapter 50, Part II, Article 5 (9VAC5-50-400 et seq.), 9VAC5-50; Va. Admin. Code Title 9, Agency 5, Chapter 60, Part II, Article 1 (9VAC5-60-60 et seq.) and Article 2 (9VAC5-60-90 et seq.)

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

The State Air Pollution Control Board has the authority to amend its regulations. *See* Va. Code § 10.1-1308. After reviewing the proposed amendments, it is my opinion that the State Air Pollution Control Board has the authority to amend and reissue the above-referenced regulations. The proposed amendments do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect.

Furthermore, this revision is necessary to meet the requirements of federal law or regulations and does not differ materially from the requirements of federal law or regulation; and

provided that the Registrar of Regulations so determines in writing, this revision may be exempted from the requirements of the Virginia Administrative Process Act, pursuant to § 2.2-4006(A)(4)(c) of the Code of Virginia.