

MEMORANDUM

FROM: Gray O'Dwyer
Assistant Attorney General

DATE: April 2, 2020

RE: Review of Proposed Changes to Regulations – 9 Va. Admin. Code §§ 15-60 *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.

It is my view that the Department of Environmental Quality (“DEQ”) is authorized to promulgate the proposed amendments to 9 Va. Admin. Code §§ 15-60 *et seq.* See [§ 10.1-1197.5](#) (“the Department shall develop, by regulations ... a permit by rule or permits by rule... for the construction and operation of small renewable energy projects”).

It is also my view that these proposed revisions are not exempt from the regulatory adoption process provided in the Virginia Administrative Process Act, §§ 2.2-4000 *et seq.* (“VAPA”).

The foregoing conclusion is my own. It does not constitute an opinion, formal or informal, of the Attorney General.