



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: David K. Paylor, Director
Virginia Department of Environmental Quality

FROM: Matthew L. Gooch
Assistant Attorney General

DATE: December 18, 2018

RE: Amend regulations that incorporate by reference certain federal regulations to reflect the current Code of Federal Regulations, Chapter 50, Part II, Article 5 (9VAC5-50-400 et seq.) and Chapter 60, Part II, Article 1 (9VAC5-60-60 et seq.) and Article 2

Pursuant to Va. Code § 2.2-4013 and Executive Order 14 (2018), I have reviewed the above-referenced amendments to the regulations of the State Air Pollution Control Board. It is my opinion that the Board has the authority to adopt these 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 this action is exempt from Article 2 of the Administrative Process Act, pursuant to Code § 2.2-4006(A)(4)(c), because the regulations are necessary to meet the requirements of federal law or regulations and do not differ materially from federal requirements.

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