



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: David A. Johnson, Director
Virginia Department of Conservation and Recreation

FROM: Matthew L. Gooch
Assistant Attorney General

DATE: October 3, 2012

RE: Exempt regulations: Public Participation Guidelines (from
CBLAB) (9VAC10-11) (repeal).

I have reviewed the above-referenced final exempt regulations. It is my opinion that the Virginia Soil and Water Conservation Board has authority to repeal these regulations based upon applicable law, including Article 1.1 of Chapter 6 of Title 10.1 of the Code of Virginia. It is my view that this repeal is exempt under Article 2 of the Administrative Process Act, Virginia Code § 2.2-4006, as necessary to conform to changes in Virginia statutory law where no agency discretion is involved, § 2.2-4006(A)(4)(a).

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