

MEMORANDUM

FROM: Jerald R. Hess
Assistant Attorney General

DATE: September 10, 2020

RE: Revising 4 Va. Admin. Code § 25-40-115 and 25-40-116 to conform with the Fair Labor Standards Act, 29 USC § 212.

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.

The Virginia Department of Mines, Minerals, and Energy (“DMME”) has the authority to revise 4 Va. Admin. Code § 25-40-115 and 25-40-116 to bring those regulations into conformity with federal law. Here, DMME’s proposed amendment will bring these regulations up to date with the Fair Labor Standards Act, 29 USC § 212 and federal regulations promulgated pursuant to that Act.

The Administrative Process Act, in § 2.2-4006(A)(4)(c), allows DMME to adopt this regulatory amendment as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

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