

MEMORANDUM

FROM: Gray O'Dwyer
Assistant Attorney General

DATE: January 6, 2020

RE: Technical Documents Incorporated By Reference (40 CFR Part 55)– 9 Va.
Admin. Code §§ 5-20 *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.

The Virginia Air Pollution Control Board (“Board”) has the authority to revise 9 Va. Admin. Code § 5-20 *et seq.* to bring that regulation into conformity with federal law. Here, the Board’s proposed amendment will correct a technical error referencing Section 328 of the Clean Air Act and 40 CFR Part 55.

The Administrative Process Act, in § 2.2-4006(A)(3), allows the Board to adopt this regulatory amendment as a final exempt action as the changes consist only of corrections of technical errors.

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