



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Eric M. Lansing
Assistant Attorney General

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: September 18, 2023

RE: Review of Existing Stationary Sources (Rev. B23): 9 VAC 5-40

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.

In response to a request from the Virginia Department of Environmental Quality, I have reviewed the above-referenced regulations of the State Air Pollution Control Board.

The State Air Pollution Control Board has the authority to amend its regulations. *See* Va. Code § 10.1-1308. After reviewing the proposed amendments, it is my opinion that the State Air Pollution Control Board has the authority to amend and reissue the above-referenced regulations, pursuant to state law, *id.*, and §§ 109 and 110 of the federal Clean Air Act. The proposed amendments do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect.

Furthermore, this revision is expected to be noncontroversial, and accordingly, the agency may submit the revision for publication in the Virginia Regulatory Town as a fast-track regulation. *See* Va. Code § 2.2-4012.1.