



**COMMONWEALTH of VIRGINIA**  
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**MEMORANDUM**

**TO:** David Johnson, Director  
Department of Conservation and Recreation

**FROM:** Matthew L. Gooch  
Assistant Attorney General

**DATE:** January 2, 2014

**RE:** Nutrient Management Training and Certification Regulations,  
4VAC 50-80-, exempt action (renumbering).

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I have reviewed the above-referenced regulatory action posted on the Virginia Regulatory Town Hall on December 29, 2013. It is my opinion that the Soil and Water Conservation Board has the authority to adopt these regulations based upon applicable law, including Article 1 of Chapter 1 of Title 10.1 of the Code of Virginia, and specifically, Code § 10.1-104.2. See 2013 Acts ch. 593 (transferring the nutrient management training and certification program from the Department to the Board).

It is further my opinion that the adoption of these regulations, and the renumbering achieved by virtue of this action, is exempt from chapter 2 of the Administrative Process Act pursuant to the 2013 Act, and specifically, its third enactment clause. Id.

The regulations 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.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the amended regulations. If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.