



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

**Jason S. Miyares**  
Attorney General

202 N. 9<sup>th</sup> Street  
Richmond, Virginia 23219  
(804) 786-2071  
Fax (804) 786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

**MEMORANDUM**

**FROM:** Eric M. Lansing  
Assistant Attorney General

**TO:** Michael Rolband, Director  
Department of Environmental Quality

**DATE:** July 18, 2024

**RE:** Review of amendment to the list of NAAQS to add a new standard for PM<sub>2.5</sub> (Rev. A24) (9VAC5-30-15, -68)

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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 issue the above-referenced regulations. 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, 40 C.F.R. § 50.20 makes this amendment “necessary to meet the requirements of federal law or regulations,” Va. Code § § 2.2-4006(A)(4)(c), and these regulatory changes “do not differ materially from those required by federal law or regulation.” *Id.* Therefore,

provided that the Registrar has “so determined [the foregoing] in writing,” the proposed amendments are, in my view, exempt from the requirements of Article 2 of the Administrative Process Act. *Id.*