



COMMONWEALTH of VIRGINIA

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MEMORANDUM

To: Coleman Walsh, Chief Administrative Law Judge
Virginia Employment Commission

From: Elizabeth B. Peay
Assistant Attorney General
Counsel to the Virginia Employment Commission

Date: December 22, 2009

Subject: Letter of Assurance for Exempt Action Final Regulation 16 VAC 5-5-10
through 16 VAC 5-5-110 – Public Participation Guidelines

I have reviewed the Exempt Action Final Regulation issued by the Virginia Employment Commission. In my view, as counsel to the Virginia Employment Commission, the Commission may promulgate these regulations, pursuant to § 2.2-4007.02 of the *Code of Virginia*. The regulations do not appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect. In addition, these regulatory changes are exempt from the requirements of Virginia's Administrative Process Act (APA), Code of Virginia §2.2-4006 A.4.a because this regulatory change is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

This memorandum addresses legal matters only, is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed, regulations, and does not address, or express a position on, matters of public policy.