

MEMORANDUM

FROM: Christopher E. Bergin, Jr.
Assistant Attorney General

DATE: September 21, 2020

RE: Revising 9 Va. Admin. Code §§ 20-81-40 to conform with recent changes to Virginia's statutory law.

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 Waste Management Board ("Board") has the statutory authority to amend 9 Va. Admin. Code § 20-81-40 to bring this regulation into conformity with recent changes to Virginia law. Here, the Board's amendment will bring this regulation up to date with recent changes to Va. Code § 10.1-1408.1(G). *See* 2020 Va. Acts Ch. 621 (prohibiting the disposal of solid waste in an unpermitted facility).

The Administrative Process Act, in § 2.2-4006(A)(4)(a), allows the Board to adopt this regulatory amendment as a final exempt action, as the changes are necessary to conform to recent changes in Virginia's statutory law, where no agency discretion is involved.

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