

## MEMORANDUM

**FROM:** Gray O'Dwyer  
Assistant Attorney General

**DATE:** May 28, 2020

**RE:** Amendments to State Parks Regulations - 4 Va. Admin. Code §§ 5-30 *et seq.*

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*Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this email contains the legal analysis of the individual staff member providing it.*

The Department of Conservation and Recreation ("Department") is proposing changes to 4 Va. Admin. Code §§ 5-30 *et seq.* The Department is authorized by § 10.1-104.A.4 of the Code of Virginia "to prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred by law". Additionally, § 10.1-104.B authorizes the Department to promulgate regulations, pursuant to the Administrative Process Act, as necessary to carry out the purposes and provisions of the chapter. In light of the foregoing, it is my view that the Department has the authority to amend its regulations.

It is also my view that these proposed revisions are not exempt from the regulatory adoption process provided in the Virginia Administrative Process Act, §§ 2.2-4000 *et seq.* ("VAPA").

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