



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Jason S. Miyares
Attorney General

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

MEMORANDUM

FROM: Jackson Brown
Assistant Attorney General

TO: Glenn Davis, Director
Department of Energy

DATE: September 27, 2024

RE: Review of Final Regulation — Regulatory action to reflect updated Code of Virginia related to the prohibited use of cyanide in mining operations (amending 4VAC25-31-360 and adopting 4VAC25-40-389)

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.

In response to a request from the Department of Energy, I reviewed the above-referenced regulations of the Department of Energy.

The Department has the authority to amend and reissue 4 VAC 25-31-360 and 4VAC25-40-389 pursuant to § 45.2-103 of the Code of Virginia. After reviewing the final regulation, it is my opinion that the Department has the authority to so amend and reissue 4 VAC 25-31-360 and to adopt 4VAC25-40-389. It is also my opinion that the final regulation is exempt from the Administrative Process Act pursuant to § 2.2-4006(4)(a) of the Code of Virginia.