



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: David Paylor, Director
Virginia Department of Environmental Quality

FROM: Matthew L. Gooch
Assistant Attorney General

DATE: September 12, 2016

RE: Amendments to the regulations for commercial/industrial/solid waste incinerators to incorporate new EPA requirements, 9VAC5-40, 9VAC5-20-21.

I have reviewed the above-referenced amendments to the regulations of the State Air Pollution Control Board. It is my opinion that the Board has the authority to adopt these regulations based upon applicable law, including Article 1 of Chapter 13 of Title 10.1 of the Code of Virginia, and specifically, Code § 10.1-1308. The regulations do not exceed the Board's rulemaking authority. It is further my opinion that this action is exempt from Article 2 of the Administrative Process Act, pursuant to Code § 2.2-4006(A)(4)(c), because the regulations are necessary to meet the requirements of federal law or regulations and do not differ materially from those required by federal law or regulation.

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.