



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Darrell W. Kuntz, III
Assistant Attorney General

TO: Julie Henderson
Director of the Office of Environmental Health Services

DATE: April 19, 2024

RE: Regulatory Review of Proposed Rainwater Harvesting System Regulations proposed to be set forth at 12 VAC5-635

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.

Please be advised that I have reviewed the Virginia State Board of Health's (the "Board") proposed Rainwater Harvesting System Regulations which would be codified at 12 VAC5-635 *et seq.* As counsel for the Board, I am of the opinion that the Board may adopt these proposed regulations pursuant to the authority granted at Va. Code § 32.1-248.2 and Va. Code § 32.1-12.

The Board is permitted to adopt regulations regarding the use of rainwater and rainwater harvesting systems, including the conditions under which rainwater may be used and for what purpose under Va. Code § 32.1-248.2. The Board is also permitted to make, adopt, promulgate and provide for reasonable variances and exemptions therefrom as may be necessary to carry out the provisions of title 32.1 of the Code.

The proposed regulations do not appear, on their face, to conflict with the Constitution of the United States of America or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed as a comment for or against the merits of the proposed amended regulations.