

**MEMORANDUM**

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

**DATE:** August 27, 2019

**RE:** Periodic Review of Regulations - 9 Va. Admin. Code §§ 5-91 *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 Environmental Quality (“DEQ”) is in the process of its periodic review of 9 Va. Admin. Code §§ 5-91 *et seq.* and is not proposing any changes to these regulations at this time. If the Board concludes this periodic review without proposing any changes to these regulations, no further review is required. If the Board seeks to amend these regulations, further review may be required. With that and in light of § 2.2-4017 of the *Code of Virginia*, it is my view that the Board has the statutory authority to adopt and maintain these regulations.

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