



**COMMONWEALTH of VIRGINIA**  
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MEMORANDUM

TO: Mike Rolband, Director  
Department of Environmental Quality

FROM: Ross Phillips  
Senior Assistant Attorney General/Chief

DATE: July 9, 2025

RE: Review of Final Regulation —9 VAC 25-110 (the “Regulation”)

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*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 Environmental Quality, I reviewed the above-referenced Regulation, which constituted Tab D of the State Water Control Board’s June 30, 2025 meeting agenda.

The State Water Control Board has the authority to reissue 9 VAC 25-110 pursuant to § 62.1-44.15 of the Code of Virginia. After reviewing the Regulation, my opinion is that the State Water Control Board has the authority to so reissue 9 VAC 25-110. It is also my opinion that the Regulation is exempt from the Administrative Process Act pursuant to § 2.2-4006(A)(8).