



**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 Exempt Regulations —9 VAC 25-31 and 9 VAC 25-32 (the  
“Regulations”)

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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 Regulations, which constituted Tab B of the State Water Control Board’s June 30, 2025 meeting agenda.

The State Water Control Board has the authority to amend 9 VAC 25-31 and 9 VAC 25-32 pursuant to § 62.1-44.15 of the Code of Virginia. After reviewing the Regulations, my opinion is that the State Water Control Board has the authority to so amend 9 VAC 25-31 and 9-VAC 25-32. It is also my opinion that the Regulations are exempt from the Administrative Process Act pursuant to § 2.2-4006(A)(4)(a), as the Regulations are in response to CH 280 of the 2025 Acts of Assembly (HB 2517).