



**COMMONWEALTH of VIRGINIA**  
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MEMORANDUM

FROM: Michael A. Jagels  
Senior Assistant Attorney General

TO: Michael Rolband, Director  
Department of Environmental Quality

DATE: July 8, 2022

RE: Review of Proposed Changes to Regulations — 9 VAC 25-920 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 memorandum contains the legal analysis of the individual staff member providing it.*

In response to a request from the Department of Environmental Quality, I have reviewed the above-referenced regulations of the State Water Control Board.

The State Water Control Board has the authority to amend its regulations. See Va. Code § 62.1-44.15. After reviewing the proposed amendments, it is my opinion that the State Water Control Board has the authority adopt the proposed regulatory amendments contained in 9 VAC 25-920 et seq.

Furthermore, the proposed regulations issue a general permit pursuant to the State Water Control Law. It is my view that the State Water Control Board has: (i) provided a Notice of Intended Regulatory Action (“NOIRA”) in conformance with the provisions of § 2.2-4007.01; (ii) 30 days after providing that NOIRA, formed a technical advisory committee composed relevant stakeholders, (iii) provided notice and received oral and written comment as provided by § 2.2-4007.03, and (iv) has conducted a public hearing on the proposed general permit. Therefore, in my view, the proposed amendments are exempt from the requirements of Article II of the Administrative Process Act under Va. Code § 2.2-4006(A)(8).