



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Jason S. Miyares
Attorney General

202 N. 9th Street
Richmond, Virginia 23219
(804) 786-2071
Fax (804) 786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

FROM: Ross Phillips
Senior Assistant Attorney General, Chief

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: April 4, 2023

RE: Review of Final Regulations for reissuance of Virginia Pollutant Discharge
Elimination System General Permit Regulation for Discharges Resulting from the
Application of Pesticides to Surface Waters — 9 VAC 25-800

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 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 of the Code of Virginia. After reviewing the final regulations, it is my opinion that the State Water Control Board has the authority to amend and reissue 9 VAC 25-800. It is also my opinion that the final regulations are for a general permit and, therefore, exempt from Article 2 of the Administrative Process Act pursuant to Va. Code § 2.2-4006(A)(8).