



**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 15, 2024

RE: Review of Final Exempt Regulations — 9 VAC 25-720 (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 F of the State Water Control Board’s June 25, 2024 meeting agenda.

The State Water Control Board has the authority to amend 9 VAC 25-720 pursuant to §§ 62.1-44.15 and 62.1-44.19:7 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 720. It is also my opinion that the Regulations are exempt from the Administrative Process Act pursuant to § 2.2-4006(A)(14).