



**COMMONWEALTH of VIRGINIA**  
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MEMORANDUM

TO: Mike Rolband, Director  
Department of Environmental Quality

FROM: Emily Little  
Assistant Attorney General

DATE: June 24, 2026

RE: Review of Final Exempt Regulation — 9 VAC 25-31 and 9 VAC 25-32 (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 have reviewed the above-referenced Regulation, which constituted Tab F of the State Water Control Board’s June 23, 2026 meeting agenda.

The State Water Control Board has the authority to amend the Regulation pursuant to Va. Code § 62.1-44.15. After reviewing the Regulation, it is my opinion that the State Water Control Board has the authority to so amend the Regulation. It is also my opinion that the Regulation is exempt from the Administrative Process Act pursuant to Va. Code § 2.2-4006(A)(4)(a) because the amendment is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.