



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 25-31, 9 VAC 25-32, and 9 VAC 25-790 (the “Regulations”)

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 C of the State Water Control Board’s June 25, 2024 meeting agenda.

The State Water Control Board has the authority to amend 9 VAC 25-31, 9 VAC 25-32, and 9 VAC 25-790 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, 9 VAC 25-32, and 9 VAC 25-790. It is also my opinion that the Regulations are exempt from the Administrative Process Act pursuant to § 2.2-4006(A)(4)(a) of the Code of Virginia because they are necessary to conform to changes enacted by Chapter 178 of the 2024 Acts of Assembly (HB 220).