



**COMMONWEALTH of VIRGINIA**  
**Office of the Attorney General**

**Jason S. Miyares**  
Attorney General

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

**MEMORANDUM**

**FROM:** Eric M. Lansing  
Assistant Attorney General

**TO:** Glenn Davis, Director  
Virginia Department of Energy

**DATE:** August 22, 2025

**RE:** Review of regulatory action to reflect updated Code of Virginia related to farm pond construction (amending 4VAC25-31-70) (Action 6844)

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In response to a request from the Virginia Department of Energy (the “Department”), I have reviewed the above-referenced regulations of the Department.

The Department has the authority to amend its regulations. *See* Va. Code §§ 45.2-103, 45.2-1202. After reviewing the proposed amendments, it is my opinion that the Department has the authority to amend and reissue the above-referenced regulations as proposed. The proposed amendments do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect.

Furthermore, this proposed regulatory amendment is necessary to conform to changes in Virginia statutory law, and no agency discretion is involved. *See* 2025 Acts of Assembly Chapters

390 and 405. Accordingly, this regulation is exempt from Article 2 of the Administrative Process Act (Va. Code §§ 2.2-4000 et seq.). *See* Va. Code § 2.2-4006(A)(4)(a).