



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Ross Phillips
Senior Assistant Attorney General, Chief

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: January 22, 2024

RE: Review of Final Regulation — 9 VAC 25-190

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 and reissue 9 VAC 25-190 (“Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining”) pursuant to § 62.1-44.15 of the Code of Virginia. After reviewing the final regulation, it is my opinion that the State Water Control Board has the authority to so amend and reissue 9 VAC 25-190. It is also my opinion that the final regulation is exempt from Article 2 of the Administrative Process Act pursuant to Va. Code § 2.2-4006(A)(8).