



COMMONWEALTH of VIRGINIA
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MEMORANDUM

To: Michael Rolband, Director
Department of Environmental Quality

From: James M. Flaherty
Senior Assistant Attorney General

Date: December 14, 2023

Subject: Review of Final Regulation – 9 VAC 25-780

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 final regulation of the State Water Control Board.

The State Water Control Board has the authority to amend its regulations. See Virginia Code § 62.1-44.15. It is my opinion that the State Water Control Board has authority to promulgate the proposed amendments to 9 VAC 25-780 under Virginia Code §§ 62.1-44.36, 62.1-44.38, and 62.1-44.38:1. Further, this regulatory proposal is required to amend the existing Local and Regional Water Supply Plan Regulation to reflect the amendments made to the Code of Virginia and to conform the existing regulation to changes in the Va. Code.

Chapter 1105 of the 2020 Acts of Assembly, as amended, requires the regulation. The final regulation does not conflict with applicable law.