



**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: Michael Rolband, Director  
Department of Environmental Quality

DATE: December 6, 2022

RE: Review of Amendment and Reissuance of the Existing General Permit Regulation -  
9 VAC 25-860

---

*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 regulations of the State Water Control Board.

The State Water Control Board has the authority to amend its regulations. *See* Va. Code § 62.1-44.15. After reviewing the proposed amendments, it is my opinion that the State Water Control Board has the authority to amend and reissue 9 VAC 25-860.

Furthermore, these amendments are for a general permit issued by the State Water Control Board pursuant to the State Water Control Law. Therefore, in my view, the proposed amendments are exempt from the requirements of Article 2 of the Administrative Process Act under Va. Code § 2.2-4006(A)(8).