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MEMORANDUM

TO: Michael Rolband, Director
Department of Environmental Quality

FROM: Ross Phillips
Senior Assistant Attorney General, Chief

DATE: February 26, 2024

RE: Review of Final Regulation — General VPDES Permit for Discharges of
Stormwater from Construction Activities (9 VAC 25-880)

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 25-880 (“General VPDES Permit for Discharges of Stormwater from Construction Activities”) pursuant to § 62.1-44.15:25 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 25-880. 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).