



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: David A. Johnson, Director
Virginia Department of Conservation and Recreation

FROM: Matthew L. Gooch
Assistant Attorney General

DATE: October 3, 2012

RE: Exempt regulations: Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60).

I have reviewed the above-referenced final exempt regulations. It is my opinion that the Virginia Soil and Water Conservation Board has authority to adopt these final regulations based upon applicable law, including Article 1.1 of Chapter 6 of Title 10.1 of the Code of Virginia. It is my view that these regulations are exempt under Article 2 of the Administrative Process Act, Virginia Code § 2.2-4006, as necessary to conform to changes in Virginia statutory law or the Appropriation Act where no agency discretion is involved, § 2.2-4006(A)(4)(a), as prescribing agency organization, internal practice or procedures, § 2.2-4006(A)(2), as consisting only of changes in style or form or correction of technical errors, § 2.2-4006(A)(3), and as necessary to meet the requirements of federal law or regulations. § 2.2-4006(A)(4)(c).

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.