

**MEMORANDUM**

**FROM:** Michael A. Jagels  
Senior Assistant Attorney General

**TO:** Michael Rolband, Director  
Department of Environmental Quality

**DATE:** June 29, 2022

**RE:** Review of Proposed Changes to Regulations — 9 VAC 25-870 *et seq.*

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*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 and establish general permits. *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 9 VAC 25-870 *et seq.*

Furthermore, these amendments are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. 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)(4)(a).