



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Mike Rolband, Director
Department of Environmental Quality

FROM: Jackson Brown
Assistant Attorney General

DATE: July 16, 2024

RE: Review of Final Regulation — 9 VAC 25-875

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 9 VAC 25-875 (“Virginia Erosion and Stormwater Management Regulation”) pursuant to §§ 62.1-44.15:28 and 62.1-44.15:55 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 9 VAC 25-875. It is also my opinion that the changes to this chapter are exempt from the Administrative Process Act pursuant to § 2.2-4006(A)(4)(a) of the Code of Virginia.