



**COMMONWEALTH of VIRGINIA**  
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MEMORANDUM

FROM: Jackson Brown  
Assistant Attorney General

TO: Mike Rolband, Director  
Department of Environmental Quality

DATE: October 11, 2024

RE: Review of Final Regulation — Amendment to the Virginia Erosion and Stormwater Management Regulation (9VAC25-875 et seq.) in response to changes to 40 CFR Part 122 (Action 6590) (9 VAC 25-875)

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In response to a request from the Department of Environmental Quality, I reviewed the above-referenced regulations of the State Water Control Board.

The Department has the authority to amend and reissue 9 VAC 25-875 (“Virginia Erosion and Stormwater Management Regulation (9VAC25-875 et seq.)”) pursuant to § 62.1-44.15(10) 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 25-875. It is also my opinion that the final regulation is exempt from Article 2 of the Administrative Process Act pursuant to § 2.2-4006(A)(4)(c) of the Code of Virginia.