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MEMORANDUM

FROM: John D. Gilbody
Senior Assistant Attorney General

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: April 23, 2025

RE: Review of Proposed Changes to Regulations — 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 have 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 25-875 (“Virginia Erosion and Stormwater Management Regulation”) pursuant to §§ 62.1-44-15:25 and 62.1-44-15:28 of the Code of Virginia.

After reviewing the proposed amendments, it is my opinion that the State Water Control Board has the authority to amend and reissue 9 VAC 25-875 as proposed.

Furthermore, these amendments are properly subject to the fast-track rulemaking process under Va. Code § 2.2-4012.1, as the amendments are noncontroversial.