



**COMMONWEALTH of VIRGINIA**  
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MEMORANDUM

FROM: Ross Phillips  
Senior Assistant Attorney General, Chief

TO: Michael Rolband, Director  
Department of Environmental Quality

DATE: August 28, 2023

RE: Review of Final Regulation — 9 VAC 25-890

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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 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 25-890 (“General VPDES Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems”) pursuant to § 62.1-44.15:25 of the Code of Virginia.

After reviewing the final regulation, it is my opinion that the State Water Control Board has the authority to amend and reissue 9 VAC 25-890 as proposed. It is also my opinion that the final regulation is exempt from Article 2 of the Administrative Process Act pursuant to Va. Code § 2.2-4006(A)(8).