



COMMONWEALTH of VIRGINIA
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Richmond 23219

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August 30, 2004

The Honorable Robert G. Burnley, Director
Virginia Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23219

Re: Authority to Promulgate Final Amendments to Virginia Pollutant Discharge Elimination System Permit Regulations, 9 VAC 25-31 *et seq.*

Dear Director Burnley:

I have reviewed the above-referenced final amendments. It is my opinion that the State Water Control Board has authority to promulgate such amendments under applicable law, including Chapter 3.1 of Title 62.1 of the Code of Virginia. It is also my opinion that the amendments are necessary to meet the requirements of federal law and regulation and that the amendments do not differ materially from those required by federal law or regulation. Accordingly, if the Registrar determines in writing that the amendments are required by, and do not differ materially from federal law and regulation, the requirements of Va. Code § 2.2-4006.A.4.c will be satisfied, and the above-referenced regulations will be exempt from the operation of Article 2 of the Administrative Process Act, §§ 2.2-4006 *et seq.* of the Code of Virginia.

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.

Sincerely,

Rick R. Linker
Assistant Attorney General
Environmental Unit