

May 12, 2003

The Honorable O. Gene Dishner, Director  
Department of Mines, Minerals and Energy  
202 North Ninth Street  
Richmond, Virginia 23219

Re: Authority to Promulgate Proposed Amendments to Regulations Regarding  
Certification Requirements for Mineral Miners, 9 VAC 25-35 *et seq.*

Dear Director Dishner:

By communication from Stephen A. Walz, Agency Regulation Coordinator, I am advised that, pursuant to the Virginia Administrative Process Act, Virginia **CODE** § 2.2-4000, *et seq.*, the Department of Mines, Minerals and Energy (the "Department") intends to promulgate proposed final regulation 4 VAC 25-35 (the "Proposed Regulation"), as modified, amending existing regulation 4 VAC 25-35 (Certification Requirements for Mineral Miners). You have asked that I provide you with a determination of whether statutory authority exists to promulgate the Proposed Regulation.

After review of the Proposed Regulation, it is my opinion that the Department has authority to promulgate the Proposed Regulation under applicable law, including Va. **CODE** § 45.1-161.292:19.

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

Sincerely,

John K. Byrum, Jr  
Assistant Attorney General  
Environmental Unit