



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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September 24, 2007

The Honorable David K. Paylor, Director
Virginia Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23219

Re: Authority to Amend VPDES Regulation Relating to Storm Water
Discharges, 9 VAC 25-31-120.B, Requirement to Satisfy Local Governing
Body's Certification

Dear Director Paylor:

I have reviewed the above-referenced amendment to the Virginia Pollutant Discharge Elimination System (VPDES) Permit regulation regarding Storm Water Discharges. Based upon your agency's representations, it is my opinion that the State Water Control Board has authority to promulgate the regulation under applicable law, including Chapter 3.1 of Title 62.1 of the *Code of Virginia*. Based upon your agency's representations, it is also my view that under Va. Code § 2.2-4006.A.4.a, the amendments are excluded from Article 2 of the Virginia Administrative Process Act.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Alfred B. Albiston".

Alfred B. Albiston
Assistant Attorney General
Environmental Section

cc: Cindy Berndt