



# COMMONWEALTH *of* VIRGINIA

Office of the Attorney General

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September 5, 2006

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

Re: Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Nitrogen, Phosphorus Discharges & Nutrient Trading in the Chesapeake Bay Watershed, Final Adoption; 9 VAC 25-820-10 et seq.

Dear Director Paylor:

I have reviewed the above-referenced regulation adopting a watershed general permit for discharges of nitrogen and phosphorus and establishing a nutrient credit trading program. 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*. Further based upon your agency's representations, it is also my view that the regulation is excluded as a General Permit under *Va. Code* § 2.2-4006.A.9, 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,

Alfred B. Albiston  
Assistant Attorney General  
Environmental Unit

cc: Cindy Berndt