



# **COMMONWEALTH of VIRGINIA**

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## **MEMORANDUM**

**To:** Courtney M. Malveaux, Commissioner  
Department of Labor and Industry

**From:** Joshua N. Lief  
Senior Assistant Attorney General

**Date:** September 25, 2012

**Subject:** Letter of Assurance for Proposed Regulations - 16VAC25-175-1926.856, Removal of Walls, Floors and Material with Equipment, 16VAC25-175-1926.858, Removal of Steel Construction, 16VAC25-175-1926.800, Underground Construction

I have reviewed the Department of Labor and Industry's proposed Regulations, specifically 16VAC25-175-1926.856, Removal of Walls, Floors and Material with Equipment, 16VAC25-175-1926.858, Removal of Steel Construction and 16VAC25-175-1926.800, Underground Construction that were posted on the Virginia Regulatory Town Hall on September 24, 2012. In my view, as counsel to the Department of Labor and Industry, these regulations may be promulgated pursuant to Title 40.1 of the Code of Virginia. Moreover, this regulatory action is exempt from the Administrative Process Act pursuant to § 2.2-4006 A.4.c. because the revision is necessary to meet the requirements of federal law or regulations. The regulations do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.