



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

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Robert B. Stroube, M.D., M.P.H.
State Health Commissioner
Virginia Department of Health
P.O. Box 2448
Richmond, Virginia 23218-2448

Amendments to the Waterworks Regulations:
Emergency Management Plan for Extended Power Outages

Dear Dr. Stroube:

I have reviewed the proposed regulations that will amend the *Waterworks Regulations* by adding a requirement at 12 VAC 5-590-505 for each community waterworks to develop and maintain an emergency management plan for extended power outages. Item 2 of Chapter 317, 2004 Acts of Assembly, requires the Board of Health to promulgate regulations to implement the provisions of the act to be effective within 280 days from the date of enactment. These regulations will replace emergency regulations that were effective February 5, 2005.

It is my view that the Board of Health, contingent on approval by the Governor, has legal authority to promulgate the subject regulation pursuant to *Code of Virginia* § 32.1-170 and Chapter 317, 2004 Acts of Assembly.

The purpose of this communication is to provide legal advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency or board and this communication should not be construed as a comment for or against the merits of such action.

Sincerely,

D. Nelson Daniel
Assistant Attorney General

cc: G. W. Peaks, P.E., Director, Office of Drinking Water
Robert A. K. Payne, Director of Regulatory Compliance