



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Jerry W. Kilgore
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
804-371-8947 TDD

August 30, 2004

The Honorable Robert G. Burnley, Director
Virginia Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23219

Re: Authority to Promulgate Virginia Pollution Discharge Elimination System General Permit
Regulation for Concentrated Animal Feeding Operations; 9 VAC 25-191 *et seq.*

Dear Director Burnley:

I have reviewed the above-referenced final amendments. It is my opinion that the State Water Control Board has authority to promulgate such amendments under applicable law, including Chapter 3.1 of Title 62.1 of the Code of Virginia. Based on your agency's representations, it is my opinion that because the requirements of § 2.2-4006.A.9 have been satisfied, the above-referenced regulations will be exempt from the operation of Article 2 of the Administrative Process Act, §§ 2.2-4006 *et seq.* of the Code of Virginia.

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

Sincerely,

Rick R. Linker
Assistant Attorney General
Environmental Unit