



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

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January 17, 2007

Roger L. Burkhart, Chair  
Safety and Health Codes Board  
c/o C. Ray Davenport, Commissioner  
Virginia Department of Labor & Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Re: Authority to Amend Assigned Protection Factors for Respirators, Final Rule  
Part § 1910.134(d)(3)(i)(A); Corrections

Dear Mr. Burkhart:

I have reviewed the above-referenced regulatory amendment setting Assigned Protection Factors for different classes of respirators. It is my opinion that the Safety and Health Codes Board has authority to promulgate such amendments under applicable law, including Chapter 3 of Title 40.1 of the *Code of Virginia*. Based upon your agency's representations, it is my opinion that under *Va. Code* § 2.2-4006.A.4(c), the regulations are excluded from Article 2 of the *Virginia Administrative Process Act* because they are necessary to meet the requirements of federal law or regulations.

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

c: Reba O'Connor