



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Kenneth T. Cuccinelli, II
Attorney General

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

September 12, 2011

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

Re: Authority to Promulgate Exempt Final Regulation E11, Greenhouse Gas Tailoring Rule –
Biomass Exemption, 9 VAC 5-85 *et seq.*

Dear Director Paylor:

I have reviewed the above-referenced regulation. It is my opinion that the State Air Pollution Control Board has authority to promulgate the regulation under applicable law, including Chapter 13 of Title 10.1 of the Code of Virginia and that the proposed amendment comports with applicable state law. Further, it is my opinion that the regulation meets the exemption set forth in Va. Code § 2.2-4006(A)(4)(c) as necessary to meet the requirements of federal law or regulations and does not differ materially from the 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 cursive script that reads "Kerri L. Nicholas".

Kerri L. Nicholas
Assistant Attorney General