



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Judith Williams Jagdmann
Attorney General

900 East Main Street
Richmond, Virginia 23219
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September 19, 2005

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

Re: Authority to Repeal Two General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations:
Discharges of Storm Water from Construction Activities, 9 VAC 25-180;
Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems, 9 VAC 25-750

Dear Director Burnley:

I have reviewed the above-referenced regulations. Based upon your agency's representations, it is my opinion that the State Water Control Board has authority to repeal the regulation based upon applicable law, including Chapter 3.1 of Title 62.1 of the Code of Virginia. Based upon your agency's representations, it is also my view that the regulations are excluded from Article 2 of the Virginia Administrative Process Act, under *Va. Code* § 2.2-4006.A.4.a, as necessary to conform to changes in Virginia statutory law.

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

Sincerely,

Alfred B. Albiston
Assistant Attorney General
Environmental Unit

cc: Cindy Berndt