



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

February 9, 2010

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M. Frank Hartsoe, 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: Updating OSHA Standards Based on National Consensus Standards;
Personal Protective Equipment; Revised Final Rule**

Dear Mr. Hartsoe:

I have reviewed the above-referenced regulation. 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.

Further, based upon your agency's representations, it is my opinion that under Virginia 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 at (804) 786-9583.

Very truly yours,

A handwritten signature in black ink, appearing to read "Crystal Y. Twitty".

Crystal Y. Twitty
Assistant Attorney General

cc: C. Ray Davenport, Commissioner
Regina P. Cobb, Agency Management Analyst, Sr.