



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: O. Gene Dishner, Director
Department of Mines, Minerals and Energy (“Department”)

FROM: Sharon M.B. Pigeon
Assistant Attorney General

DATE: March 12, 2003

RE: Amendments to public participation regulations governing how the Department, the Board of Coal Mining Examiners, (“Coal Board”), the Board of Mineral Mining Examiners (“Mineral Board”) and the Virginia Gas and Oil Board (“VGOB”) will ensure notice and public participation in regulatory action and in compliance with the Administrative Process Act (“APA”), 4 VAC 25-10 (“Existing Regulations”)

The Office of the Attorney General has been advised that the Department proposes to amend Existing Regulations governing how the Department, Coal Board, Mineral Board and VGOB will respond to petitions for rulemaking, maintain a regulatory mailing list, notify and include interested persons in the regulatory development process while in compliance with the APA to ensure citizen and industry involvement in the regulatory actions taken by the Department and its Boards. This advice was provided by electronic memorandum dated February 28, 2003 from Stephen Walz, Regulatory Coordinator for the Department of Mines, Minerals and Energy. We were informed the amendments to the Existing Regulations were drafted to facilitate public participation in this regulatory activity.

On March 12, 2003, you asked that I provide you with a determination of whether statutory authority exists to amend the existing regulation 4 VAC 25-10, as posted at www.townhall.state.va.us (“Proposed Regulation”). After a review of the proposed amendments to Existing Regulations, I have determined that the amendments do fall within the Department’s powers and mandate to act to ensure public notice and participation in the Department’s regulatory actions. The proposed amendments to Existing Regulations are approved as to form as currently written.

I have reached this conclusion in reliance on the general authority to promulgate regulations given to the Department through Va. Code §§ 45.1-161.3 and 2.2-4007. Additional, more specific support for this authority can also be found in §§ 45.1-161.128, 45.1-161.292:19 and 45.1-361.15 of the Virginia Code, 1952, as amended.