



# *COMMONWEALTH of VIRGINIA*

*Office of the Attorney General*

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
Fax 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

November 21, 2016

Marissa J. Levine, MD, MPH, FAAFP  
State Health Commissioner  
Virginia Department of Health  
109 Governor Street, 13<sup>TH</sup> Floor  
Richmond, Virginia 23219

**RE: Certification of Final Waterworks Regulations – Revised Total Coliform Rule (RTCR) Amendments**

Dear Dr. Levine:

The Environmental Protection Agency (EPA) is requiring certification from Virginia's Attorney General that recent amendments to the Waterworks Regulations have been duly adopted and are enforceable. 40 C.F.R. § 142.12(c)(1)(iii).

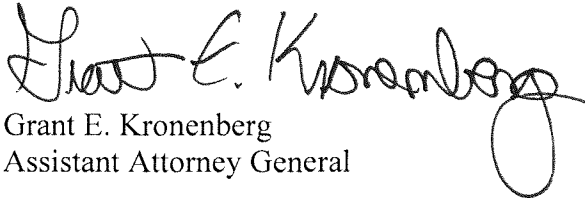
The Revised Total Coliform Rule (RTCR) became effective on November 2, 2016, and was published in the Virginia Register, Vol. 33, Iss. 3 at pages 320-411. Pursuant to the authority delegated to me by the Attorney General of Virginia, I affirm that these amendments are duly adopted and enforceable. The Commonwealth possesses the authority to enforce these regulations pursuant to Va. Code §§ 32.1-26, -27, -175, -175.01, and -176.

Furthermore, I certify that the environmental voluntary audit and immunity laws of the Commonwealth, Va. Code §§ 10.1-1198 and 10.1-1199, do not affect the ability of Virginia to meet enforcement and information gathering requirements under the Safe Drinking Water Act because the audit privilege and/or immunity laws do not apply to the amendments. Virginia's federally authorized environmental programs are subject to state environmental privilege and immunity laws; however, no immunity can be afforded from administrative, civil, or criminal penalties because granting such immunity would be inconsistent with federal law, which is a criterion for the application of immunity described in §§ 10.1-1198 and 10.1-1199. Consequently, the amendments are unaffected by the audit privilege and/or immunity laws of Virginia.

The purpose of this communication is to provide legal advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such

action remains a policy decision within the discretion of your agency or board and this communication should not be construed as a comment for or against the merits of such action.

Sincerely,

A handwritten signature in black ink, appearing to read "Grant E. Kronenberg". The signature is fluid and cursive, with a large loop at the end of the last name.

Grant E. Kronenberg  
Assistant Attorney General

cc: Andrew J. Hammond II, PE, Acting Director, Office of Drinking Water  
Robert A. K. Payne, JD, Director of Legal Affairs