



COMMONWEALTH of VIRGINIA

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June 29, 2007

Robert B. Stroube, M.D., M.P.H.
State Health Commissioner
Department of Health
P.O. Box 2448
Richmond, Virginia 23218-2448

Amendments to the Biosolids Use Regulations:
Enforcement and Site Management

Dear Dr. Stroube:

I have reviewed proposed amendments to the *Biosolids Use Regulations*, 12 VAC 5-585-760 *et seq.*, dated May 29, 2007, that provide guidelines for disputes involving local ordinances and requirements for development of management practices plans to protect odor sensitive receptors, ensure permit compliance and address nutrient management concerns. Virginia Department of Health staff prepared these amendments in response to legislation passed by the General Assembly (SB 1088, Acts of Assembly c. 681, 2003) and signed into law by the Governor, amending §§ 32.1-164.5 and 32.1-164.7 of the *Code of Virginia*.

It is my view that the Board of Health, contingent on approval by the Governor, has legal authority to promulgate the subject amendments pursuant to *Code of Virginia* § 32.1-164.5.

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. This communication should not be construed as a comment for or against the merits of such action.

Sincerely,

A handwritten signature in black ink that reads "Kerri L. Nicholas".

Kerri L. Nicholas
Assistant Attorney General

cc: Robert W. Hicks
Calmet M. Sawyer, Ph.D., P.E.