



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

July 2, 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:**  
**Access Control**

Dear Dr. Stroube:

I have reviewed proposed amendments to the *Biosolids Use Regulations*, 12 VAC 5-585 *et seq.*, dated June 13, 2007, that provide guidelines to provide standards for the control of access to sites where Class B Pathogen Control Biosolids are land applied. Virginia Department of Health staff prepared these amendments in response to recommendations on site access control as contained in the in the 2005 Joint Legislative Audit and Review Commission (JLARC) Report entitled, "Review of Land Application of Biosolids In Virginia" (<http://jlarc.state.va.us>).

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 cursive script that reads "Kerri L. Nicholas".

Kerri L. Nicholas  
Assistant Attorney General

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