



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

September 12, 2007

Leslie P. Foldesi
Director, Radiological Health Program
Virginia Department of Health
109 Governor Street, Room 730
Richmond, Virginia 23219

Proposed Radiation Protection Regulations: Fee Schedule

Dear Mr. Foldesi:

I have reviewed the proposed amendments to the *Virginia Radiation Protection Regulations: Fee Schedule*, 12 VAC 5-490-10 *et seq.* The proposed amendments establish a fee schedule to support the radioactive materials licensing and inspection program for those materials the U.S. Nuclear Regulatory Commission (NRC) intends to transfer to the Commonwealth by agreement.

It is my view that the Board of Health, contingent on approval by the Governor, has legal authority to promulgate the subject regulations pursuant to *Code of Virginia* § 32.1-229.

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,

D. Nelson Daniel
Assistant Attorney General

cc: Robert B. Stroube, M.D., M.P.H., State Health Commissioner