

February 17, 2011

Karen Remley, M.D., M.B.A.  
State Health Commissioner  
Department of Health  
109 Governor Street  
Richmond, Virginia 23219

**Geothermal Well Permit Regulations and Amendments to Private Well Regulations**

Dear Dr. Remley:

I have reviewed the proposed *Express Geothermal Wells Permits* Regulation, 12 VAC 5-630-271, and the amendments to the *Water System Yields for Residential Use Wells* Regulation, 12 VAC 5-630-460. The Geothermal Wells Permit Regulation is being promulgated due to changes in Virginia Code §32.1-176.4(C) which requires the Board to adopt regulations that provide for the issuance of an “express geothermal permit.” The amendment to the *Water System Yields for Residential Use Wells* Regulation is necessary to conform to changes in Virginia Code § 32.1-176.4 which requires the Board, in developing regulations, to include minimum storage and yield requirements for residential drinking water wells and further requires the certified water well systems provider to certify that the requirements are met.

It is my view that the Board of Health has legal authority to promulgate the subject regulation and amendments to the regulations based upon applicable law, including Code of Virginia § 32.1-176.4. If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.

Sincerely,

Alisson O. Pouille  
Assistant Attorney General