

September 23, 2008

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

Proposed Regulations For The Onsite Sewage Indemnification Fund

Dear Dr. Remley:

I have reviewed the proposed *Regulations For The Onsite Sewage Indemnification Fund*, 12 VAC 5-612-10 *et seq.* The proposed regulations establish the procedure and process for application to the Onsite Sewage Indemnification Fund.

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* § 32.1-164.1:01.

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,

Karri B. Atwood
Assistant Attorney General

cc: Robert W. Hicks, Director, Office of Environmental Health Services
Gary L. Hagy, Director, Division of Food and Environmental Services