

August 23, 2002

TO: Environmental Health Managers **GMP #119**
District Health Directors
OEHS Staff
VPI/SU Soil Consultants

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

SUBJECT: DECLARATION OF SUSPENSION: 12 VAC 5-630, PRIVATE WELL
REGULATIONS

BACKGROUND

On July 31, 2002, Governor Warner declared that the drought and related conditions currently affecting the Commonwealth constitute a natural disaster “wherein human life and public and private property are imperiled.” In Executive Order 31 (2002) Governor Warner declared that a state of emergency exists throughout the Commonwealth and he directed that state and local government agencies render assistance to “prevent and alleviate any conditions resulting from drought...and to implement prevention and recovery operations and activities so as to alleviate impacted areas from the effects of these conditions insofar as possible.”

Section 160 of the *Private Well Regulations* (12 VAC 5- 630-10 et seq.) provides that the State Health Commissioner may authorize the suspension of the *Private Well Regulations* for specifically affected localities in cases of man-made or natural disasters upon a finding that “certain regulations cannot be complied with and that the public is better served by not fully complying with this chapter.” In such cases the Commissioner may institute a provisional regulatory plan until the disaster is abated.

Since July 1st local health departments across the Commonwealth have received more than 2,230 applications for permits to replace private wells. These include applications to replace both drinking water wells and irrigation wells. Section 240 of the *Private Well Regulations* requires that VDH issue a construction permit no later than 60 days after receipt of a complete application. Many district and local health departments cannot deliver timely service

to these applicants and maintain mandated services in other programs. In addition, environmental health resources in many localities have been severely affected by the need for increased surveillance and monitoring for the West Nile virus. It is my finding, therefore, that that the public would be better served by not fully complying with certain requirements of the *Private Well Regulations*.

EMERGENCY SUSPENSION

I am hereby suspending §§ 220, 310, 320, and 330 of the *Private Well Regulations* and implementing a provisional regulatory plan until December 31, 2002, unless the disaster is abated prior to this date. Section 220 requires a person to obtain a written construction permit before constructing, altering, rehabilitating, abandoning, or extending a private well. That section also prohibits a person from placing a private well into service, except for testing the mechanical soundness of the system, until VDH has:

1. received a properly executed Uniform Water Well Completion Report signed by the contractor (§§ 310, 440);
2. inspected the well and found it to be satisfactory (§ 320);
3. received laboratory test results showing satisfactory water quality (§ 370);
4. received documentation that the well has been properly disinfected (§ 430); and
5. issued an inspection statement (§ 330).

PROVISIONAL REGULATORY PLAN

This provisional regulatory plan is intended to allow a property owner in the Commonwealth to construct, alter, rehabilitate, or extend a private well to replace an existing well without first obtaining a construction permit from VDH. In addition, the provisional regulatory plan allows an owner to place a private well into service without first submitting to VDH the required Uniform Water Well Completion Report, laboratory test results, or documentation of disinfection. Under the provisional regulatory program, an owner may begin to use a replacement well before it has been inspected by the local health department. The following procedures or requirements shall apply:

Scope and Applicability:

1. The provisional regulatory program shall apply only to *emergency well replacement* which is defined at 12 VAC 5-630-10 as “the replacement of an existing private drinking water well, heat pump well, or commercially

dependent well that has failed to deliver the water needed for its intended use. Such failure requires the drilling of a new well or extensive modification to the existing well. The replacement of failed noncommercial irrigation wells, and other types of private wells are not considered emergencies.”

2. Express Class IV well permitting (§§ 260, 270) is not affected by this action.
3. This emergency suspension and provisional regulatory program applies only to private wells and shall in no way affect the permitting and approval procedures for public water supplies.
4. This emergency suspension does not apply to the construction of private wells to serve new uses such as new homes, businesses, etc. The recently adopted *Authorized Onsite Soil Evaluator (AOSE) Regulations* (12 VAC 5-615) allow local health departments to accept evaluation reports and designs for private wells from AOSEs and to issue construction permits pursuant to those reports and designs without the requirement for a site visit by VDH. Citizens are strongly encouraged to secure the services of an AOSE when seeking a private well permit, either in an emergency well replacement situation or in the case of a new use. This will expedite the well permitting process.

Procedures:

1. Prior to drilling a private well or causing or allowing a private well to be drilled the owner shall file a complete application with the appropriate local health department. A complete application will consist of the completed application form (with a copy of this GMP attached) that is attached to this GMP signed by the owner of record (not an agent), a site plan and the appropriate fee, if necessary. The application form is specific for this provisional regulatory plan and acknowledges the owner's responsibility for complying with the *Private Well Regulations*. The application provides a statement that gives VDH personnel permission to enter the property later to verify the location and construction of the well.
2. In accordance with the *Fee Regulations* (12 VAC 5- 620-10 et seq.) and VDH policy, no fee shall be charged for a replacement well. A replacement well is a well that is being constructed to take the place of an existing well, which is being taken out of service and properly abandoned. If the existing well is not permanently abandoned, a fee will be charged.

3. The well must be drilled by a contractor holding a valid WWP (Water Well/Pump) Contractors license (A, B, or C) from the Department of Professional and Occupational Regulation. Environmental Health Specialists are not required to make a site visit to the property either to verify the proposed well location and design (if not already constructed) or to verify the "as built" location and construction details in the field.
4. An AOSE may conduct an inspection and certify the location and construction of a well constructed following this provisional regulatory program.
5. The owner shall submit to the local health department all the following information that is required of a normal well construction permit within 30 calendar days of the well completion:
 - a. A properly executed Uniform Water Well Completion Report signed by the contractor (§§ 310, 440);
 - b. Laboratory test results showing satisfactory water quality (§ 370);
 - c. Documentation that the well has been properly disinfected (§ 430); and
 - d. An "As-Built" drawing triangulating the well location relative to the house, property lines, sewage system, or other significant land features or structures. The "As-Built" drawing must include the location of dry holes bored and the location of abandoned wells. VDH encourages the owner to seek the assistance of a qualified surveyor.

Commonwealth of Virginia Application for Emergency Well Replacement

Health Department ID# _____ (VDH Use)

NOTICE: On July 31, 2002, Virginia Governor Mark Warner declared a State of Emergency due to the drought conditions currently affecting the Commonwealth. State Health Commissioner Robert B. Stroube, M.D., M.P.H. then suspended certain portions of the *Private Well Regulations* and instituted a provisional regulatory program. The provisional regulatory plan allows an owner to construct, alter, rehabilitate, or extend a private well without first obtaining a written construction permit and allows an owner to begin to use a private well without an inspection by the local health department. The property owner must comply with certain conditions of the provisional regulatory plan that are explained in the Virginia Department of Health's (VDH) Guidance Memorandum and Policy (GMP) #119, a copy of which is attached. Commissioner Stroube's suspension is effective until December 31, 2002, unless it is terminated sooner because the drought conditions have ceased. After December 31, 2002, (or sooner if the suspension is terminated) a construction permit will be required before an owner may construct a private well.

Owner _____ Address _____ Phone _____

_____ Email _____

Agent _____ Address _____ Phone _____

_____ Email _____

Directions to Property: _____

Subdivision _____ Section _____ Block _____ Lot _____

Other Property Identification _____ Map Reference _____

Dimension/size of Lot/Property _____

Water Supply:

Describe Proposed Well : _____

The property lines, building location and water supply are clearly marked and the property is sufficiently visible to see the topography. I have attached a site plan (sketch) showing the dimensions of the property, proposed and/or existing structures and driveways, underground utilities, recorded easements, soil absorption systems and other actual or proposed sources of contamination, bodies of water, drainage ways, wells and springs within 100 feet radius of the proposed replacement well. Distances may be paced or estimated. I give permission to VDH personnel to enter the property later to verify the location and construction of the well.

I hereby certify that my existing well (or other private water supply) has failed to deliver the water needed for its intended use. I acknowledge that all applicable requirements of the *Private Well Regulations* will be met and that the information contained in this application is true and accurate to the best of my knowledge. I agree to assume responsibility for any problems that may arise due to improper construction or location of the proposed well. I agree to correct such problems as directed by the Virginia Department of Health when notified to do so. I understand that VDH may not perform a site evaluation or construction inspection of this well.

Signature of Owner

Date

This acknowledges that the above owner has complied with the application requirements of the State Health Commissioner's Declaration of Suspension of §§ 220, 310, 320, and 330 of the *Private Well Regulations* and subsequent provisional regulatory plan dated August 23, 2002, and described in the attached GMP #119.

Signature of Local Health Dept. Official
Form established: 8/21/02

Date