

Guidance for the Application of the Municipal Pollution Control Priority System Rule to New Soil-based Wastewater Systems

Vermont's Municipal Pollution Control Priority System Rule provides guidelines for the prioritization of projects receiving grant and loan funding pursuant to 10 V.S.A. Chapter 55 and 24 V.S.A. Chapter 120. Pursuant to the Rule, applicants proposing to establish a new wastewater treatment facility or extend sewer lines are required to make certain demonstrations before they are eligible for funding. Proposals for new soil-based wastewater systems *permitted to discharge solely under the Wastewater and Potable Water Supply Rules and Indirect Discharge Rules* are exempt from the required demonstrations, but are subject to the Rule's general policy that publicly-funded projects be prioritized in order to minimize polluted runoff from unplanned land development and to prevent scattered development and its negative impacts on natural resources.

For those municipalities seeking to build new soil-based wastewater treatment systems permitted to discharge solely under the Wastewater and Potable Water Supply Rules and Indirect Discharge Rules using DEC-administered funding including the American Rescue Plan Act (ARPA) funds and the Clean Water State Revolving Fund (CWSRF), the following guidance applies:

- 1) Funding granted to municipalities from ARPA monies appropriated to DEC in the SFY 22 and 23 budgets (Acts 74 and 185, respectively), for the purpose of constructing a new wastewater system, can be used for the costs of treatment and disposal, including treatment and disposal infrastructure constructed outside the designated center, and for collection system construction that serves the designated center area and its adjacent neighborhood planning area.
- 2) As part of design and construction, should a municipality wish to finance a more expansive collection system outside of the designated center and its adjacent neighborhood planning area, or finance initial connections between the designated center and the downgradient treatment/disposal area, the municipality can borrow from the CWSRF for that purpose.
- 3) Should a municipality seek additional subsidy from the CWSRF in the form of loan forgiveness, municipal pollution control grants, or other mechanisms administered by DEC, that subsidy is only available to those municipalities that have obtained an expanded village center designation, or a neighborhood development area designation for those expanded areas, by such time as the first CWSRF loan payment becomes due. A municipality that has not obtained an expanded village center designation may still be eligible for the funding identified in this paragraph if they can make the following demonstrations, as required under Section 310 (b) of the Municipal Pollution Control Priority System Rule:
 - i) If the applicant proposes to run all or a portion of a sewer line outside of a designated center (for example, a line between a disposal area and designated center or between two designated centers, or a line to abate an existing public health problem), then the applicant must demonstrate that there are no reasonable project alternatives to locating the sewer line outside a municipally designated center and that the municipality has prepared a strategy designed to ensure that the project will not contribute to scattered development and has adopted all rules, ordinances, and other legally enforceable mechanisms necessary to implement the strategy; and In the event that new sewer service is proposed for users outside of a designated center, then the applicant must also demonstrate that there are significant health and environmental problems, which are most cost-effectively addressed by providing sewer service outside the limits of a designated center. Municipalities that

have been issued an order to abate pollution by the Agency pursuant to 10 V.S.A. § 1277, do not have to make this demonstration.

**Relevant Rule Sections:
Municipal Pollution Control Priority System Rule**

Section 210 (a)(4):

The purpose of this Rule is . . .

(4) to ensure there are appropriate controls on Agency of Natural Resources (ANR) funded publicly owned treatment works (POTW) and municipally sponsored privately-owned wastewater system (MSPOWS) projects to: minimize polluted runoff from unplanned land development; and to prevent scattered development and its negative impacts on surface and ground waters, wetlands, air quality, wildlife habitats, natural areas, threatened and endangered species, and land use patterns within the host and adjacent communities.

Section 210 (c):

(c) To be eligible for a POTW or a MSPOWS project grant or loan from the Agency for the final design or construction of a new wastewater treatment facility, excluding replacement facilities and facilities permitted to discharge solely under the Wastewater and Potable Water Supply Rules and Indirect Discharge Rules, or a sewer line extension, the applicant must demonstrate that the project is designed to serve a designated center only, unless there are significant health and environmental problems located outside of a designated center. If a sewer line serving a designated center must be located partially outside of a designated center in order to abate an existing pollution problem, to connect a treatment plant with a designated center, or to connect one or more designated centers, the municipality must demonstrate that the impacts of growth resulting from the infrastructure can be adequately managed, and will not contribute to scattered development.

Section 310 Required Demonstrations:

(b) The following requirements apply to an application for a grant or loan for the final design or construction of a POTW or MSPOWS project where the applicant proposes to: 1) establish a new wastewater treatment facility, excluding replacement facilities and facilities permitted to discharge solely under the Wastewater and Potable Water Supply Rules and Indirect Discharge Rules, or 2) extend sewer lines. The applicant shall make the following demonstrations:

(1) The applicant must demonstrate that the municipality has received state approval for one or more designated centers in a duly adopted and approved municipal plan in accordance with the requirements of 24 V.S.A. Chapter 117;

(2) If the applicant proposes to run all or a portion of a sewer line outside of a designated center (for example, a line between a treatment plant and designated center or between two designated centers, or a line to abate an existing public health problem), then the applicant must demonstrate that there are no reasonable project alternatives to locating the sewer line outside a municipally designated center and that the municipality has prepared a strategy designed to ensure that the project will not contribute

to scattered development and has adopted all rules, ordinances, and other legally enforceable mechanisms necessary to implement the strategy; and

(3) In the event that new sewer service is proposed for users outside of a designated center, then the applicant must also demonstrate that there are significant health and environmental problems, which are most cost-effectively addressed by providing sewer service outside the limits of a designated center. Municipalities that have been issued an order to abate pollution by the Agency pursuant to 10 V.S.A. § 1277, do not have to make this demonstration.

Section 320 Department to Provide Guidance to Municipalities.

The Secretary has issued and will update, as needed, a guidance document that includes a detailed explanation of designated centers and examples of local land use planning and regulatory strategies that may be used in making the demonstrations set forth above. Such guidance will offer municipalities a range of options. The guidance will also take into account that there is no single approach applicable to all municipalities. The guidance will recognize that in order to promote compatibility with existing programs and development conditions and to account for differences in the desires of their citizenry, municipalities must have latitude in fashioning their approaches to designating and managing designated centers and to limiting scattered development.

Section 500(h) Definitions:

“POTW or publicly owned treatment works” shall mean all sewage collecting systems, pump stations, and other approved methods of sewage conveyance, all treatment works including storage and disposal systems, and all sludge handling and disposal systems that are owned by a legally constituted municipality in the State of Vermont.

Effective Date: March 28, 2023



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