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Resources.

1	H.53
2	Introduced by Representative Branagan of Georgia
3	Referred to Committee on
4	Date:
5	Subject: Conservation and development; potable water supplies and
6	wastewater systems; isolation distances
7	Statement of purpose of bill as introduced: This bill proposes to require an
8	isolation distance for a potable water supply and wastewater system to be
9	located on the property on which the supply or system is located; be authorized
10	to extend onto property owned by a person other than the permit applicant; or
11	be waived by the permit applicant if certain criteria are satisfied.
12 13	An act relating to isolation distances for potable water supplies and wastewater systems
14	It is hereby enacted by the General Assembly of the State of Vermont:
15	Sec. 1. 10 V.S.A. § 1972 is amended to read:
16	§ 1972. DEFINITIONS
17	For the purposes of As used in this chapter:

(1) "Agency" means the agency of natural resources Agency of Natural

1	(2) "Building or structure" means a building or structure whose use or
2	useful occupancy requires the construction or modification of a potable water
3	supply or wastewater system.
4	* * *
5	(4)(A) "Failed supply" means a potable water supply:
6	(i) that has been found to exceed the standard set by the secretary
7	Secretary in rule for one or more of the following contaminants:
8	(I) total coliform;
9	(II) nitrates;
10	(III) nitrites;
11	(IV) arsenic; or
12	(V) uranium;
13	(ii) that the secretary Secretary affirmatively determines as not
14	potable, due to the presence of a contaminated site, a leaking underground
15	storage tank, or other known sources of groundwater contamination or
16	naturally occurring contaminants, and that information has been posted on the
17	agency of natural resources' Agency of Natural Resources' website; or
18	(iii) the secretary Secretary affirmatively determines to be failed
19	due to the supply providing an insufficient quantity of water to maintain the
20	usual and customary uses of a building or structure or campground, and that

1	information has been posted on the agency of natural resources' Agency of
2	Natural Resources' website.
3	(B) Notwithstanding the provisions of this subdivision, a potable
4	water supply shall not be a failed supply if:
5	(i) these effects can be and are remedied solely by minor repairs,
6	including the repair of a broken pipe leading from a building or structure to a
7	well, the replacement of a broken pump, repair or replacement of a mechanical
8	component, or deepening or hydrofracturing a well; or
9	(ii) these effects have lasted for only a brief period of time, the
10	cause of the failure has been determined to be an unusual and nonrecurring
11	event, and the supply has recovered from the state of failure. Supplies which
12	that have recurring, continuing, or seasonal failures shall be considered to be
13	failed supplies.
14	(C) If a project is served by multiple potable water supplies, the
15	failure of one supply will not require the issuance of a permit or permit
16	amendment for any other supply that is not in a state of failure.
17	(5)(A) "Failed system" means a wastewater system that is functioning in
18	a manner:
19	(i) that allows wastewater to be exposed to the open air, pool on

the surface of the ground, discharge directly to surface water, or back up into a

1	building or structure, unless, in any of these instances, the approved design of
2	the system specifically requires the system to function in such a manner; or
3	(ii) that results in a potable water supply being affirmatively
4	determined by the secretary Secretary to be a failed supply, and that
5	information has been posted on the agency of natural resources' Agency of
6	Natural Resources' website.
7	(B) Notwithstanding the provisions of subdivision (A) of this
8	subdivision (5), a system shall not be a failed system if:
9	(i) these effects can be and are remedied solely by minor repairs,
10	including the repair of a broken pipe leading from a building or structure to the
11	septic tank, replacement of a cracked or broken septic tank, or replacement of a
12	broken pump or associated valves, switches, and controls; or
13	(ii) these effects have lasted for only a brief period of time, the
14	cause of the failure has been determined to be an unusual and nonrecurring
15	event, and the system has recovered from the state of failure. Systems which
16	have recurring, continuing, or seasonal failures shall be considered to be
17	failed systems.
18	(C) If a project is served by multiple wastewater systems, the failure
19	of one system will not require the issuance of a permit or permit amendment

for any other system that is not in a state of failure.

- (D) A wastewater system may be determined to be a failed system by the completion of a site visit that identifies one or more of the conditions set forth in subdivision (A)(i) of this subdivision (5).
- (6) "Potable water supply" means the source, treatment, and conveyance equipment used to provide water used or intended to be used for human consumption, including drinking, washing, bathing, the preparation of food, or laundering. This definition does not include any internal piping or plumbing, except for mechanical systems, such as pump stations and storage tanks or lavatories, that are located inside a building or structure and that are integral to the operation of a potable water system. This definition also does not include a potable water supply that is subject to regulation under chapter 56 of this title.
- (7) "Professional engineer" means an engineer licensed and in good standing by the board of professional engineering Board of Professional Engineering under 26 V.S.A. chapter 20 of Title 26.
- (8) "Secretary" means the secretary of the agency of natural resources

 Secretary of Natural Resources or a duly authorized representative of the

 secretary Secretary. A duly authorized representative of the secretary

 Secretary includes a municipality that has requested delegation, in writing, and has been delegated the authority to implement provisions of this chapter in lieu of the secretary Secretary.

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1	(10) "Wastewater system" means any piping, pumping, treatment, or
2	disposal system used for the conveyance and treatment of sanitary waste or
3	used water, including, but not limited to, carriage water, shower and wash
4	water, and process wastewater. This definition does not include any internal
5	piping or plumbing, except for mechanical systems, such as pump stations and
6	storage tanks or toilets, that are located inside a building or structure and that
7	are integral to the operation of a wastewater system. This definition also does
8	not include wastewater systems that are used exclusively for the treatment and
9	disposal of animal manure. In this chapter, "wastewater system" refers to a
10	soil-based disposal system of less than 6,500 gallons per day, or a sewerage
11	connection of any size.
12	(11) "Single family residence" means a building or a structure that
13	contains only one living unit.
14	Sec. 2. 10 V.S.A. § 1973 is amended to read:
15	§ 1973. PERMITS
16	(a) Except as provided in this section and sections 1974 and 1978 of this
17	title, a person shall obtain a permit from the Secretary before:
18	(1) subdividing land;

(2) creating or modifying a campground in a manner that affects a

potable water supply or wastewater system or the requirements for providing

potable water and wastewater disposal;

1	(3) constructing, replacing, or modifying a potable water supply or
2	wastewater system;
3	(4) using or operating a failed supply or failed system;
4	(5) constructing a new building or structure;
5	(6) modifying an existing building or structure in a manner that
6	increases the design flow or modifies other operational requirements of a
7	potable water supply or wastewater system;
8	(7) making a new or modified connection to a new or existing potable
9	water supply or wastewater system; or
10	(8) changing the use of a building or structure in a manner that increases
11	the design flows or modifies other operational requirements of a potable water
12	supply or wastewater system.
13	* * *
14	(j)(1) When an applicant for a permit under this section proposes a water
15	supply or wastewater system with isolation distances that extend onto property
16	other than the property for which the permit is sought, the permit applicant
17	shall send by certified mail, on a form provided by the Secretary, a notice of an
18	intent to file a permit application, including the site plan that accurately depicts
19	all isolation distances, to any landowner affected by the proposed isolation
20	distances at least seven calendar days prior to the date that the permit

application is submitted to the Secretary.

(2) If, during the course of the Secretary's review of an application for a permit under this section, the location of a water supply or wastewater system permit is revised and the isolation distances of the revised system extend onto property other than the property for which the permit is sought, the permit applicant shall send by certified mail a copy of any revised plan to any landowner affected by the isolation distances. (3) If, after a permit has been issued under this section, a water supply or wastewater system is not installed according to the permitted plan and the

or wastewater system is not installed according to the permitted plan and the record drawings submitted under subsection (e) of this section indicate that the isolation distances of the system as constructed extend onto property other than the property on which the system is located, the permittee shall send by certified mail a notification form provided by the Secretary with a copy of the record drawings showing all isolation distances to any landowner affected by the isolation distances.

(4) A permit applicant or permittee subject to the requirements of subdivisions (1) through (3) of this subsection shall certify to the Secretary that the notices and information required by this subsection have been sent to affected landowners and shall include in the certification the name and address of all affected landowners. If the Secretary approves a permit application under this section, the permit shall not be issued to a permit applicant subject to the requirements of subdivision (2) of this subsection until seven calendar

1	days after the permit applicant certifies to the Secretary that the notice required
2	under this subsection has been sent to affected landowners Beginning on
3	July 1, 2015, an applicant for a potable water supply or a wastewater system
4	permit under this chapter shall:
5	(1) demonstrate that the required isolation distance for the potable water
6	supply and wastewater system is located on the property on which the potable
7	water supply or wastewater system is located;
8	(2) submit written authorization from the owner of any property on
9	which the isolation distance will encroach; or
10	(3) submit a waiver of isolation distance form that complies with the
11	requirements of section 1981 of this title.
12	Sec. 3. 10 V.S.A. § 1978(a) is amended to read:
13	(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25
14	necessary for the administration of this chapter. These rules shall include, but
15	are not limited to, the following:
16	(1) performance standards for wastewater systems;
17	(2) design flow standards for potable water supplies and wastewater
18	systems;
19	(3) design requirements, including isolation distances, provided that,
20	beginning on July 1, 2015, the rules shall not authorize the extension of an

isolation distance onto property other than the property for which a permit is

1	sought unless the permit applicant satisfies the requirements of subsection
2	1973(j) of this section;
3	* * *
4	Sec. 4. 10 V.S.A. § 1981 is added to read:
5	§ 1981. ISOLATION DISTANCES; WAIVER
6	(a) If a permit applicant cannot meet the isolation distance required under
7	the rules adopted under this chapter for a potable water supply or wastewater
8	system, the permit applicant may waive application of the isolation distances
9	provided that the following conditions are satisfied:
10	(1) the proposed potable water supply or wastewater system shall serve
11	only a single family residence;
12	(2) the applicable isolation distances shall be maximized to the extent
13	possible, including installation in an alternate location when required by the
14	Secretary:
15	(3) isolation distances to surface waters or groundwater shall not be
16	waived; and
17	(4) at least 10 days prior to filing the waiver, the permit applicant
18	notifies all adjacent property owners of the intent to waive the isolation
19	distances.

1	(b) If the criteria of subsection (a) of this section are satisfied, the Secretary
2	shall provide the permit applicant with a waiver form that informs the permit
3	applicant that:
4	(1) the proposed potable water supply or wastewater system will be
5	located in a manner inconsistent with the rules of the Agency of Natural
6	Resources;
7	(2) upon waiver of the isolation distances, the permit applicant or
8	subsequent property owner shall be prohibited from preventing the installation
9	on adjacent property of a potable water supply or wastewater system within the
10	normally applicable isolation distance; and
11	(3) the permit applicant or subsequent owner shall have no cause of
12	action against the State of Vermont or an adjacent property owner if the
13	applicant or subsequent owner's potable water supply or wastewater system
14	fails as a result of the decreased isolation distance.
15	(c) A permit applicant shall sign a waiver form and submit the waiver form
16	to the Secretary of Natural Resources.
17	(d) Upon issuance of a permit under this chapter, the permittee shall record
18	the waiver form in the land records of the town in which the potable water
19	supply is located.
20	(e) Waiver of isolation distances under this section shall not prohibit the
21	Secretary from denying a permit application on a separate basis.

- 1 Sec. 5. EFFECTIVE DATE
- 2 This act shall take effect on July 1, 2015.