

Agency of Natural Resources, Department of Environmental Conservation
Section-by-section changes to 10 V.S.A. Chp. 55 and 24 V.S.A. Chp. 120
February 4, 2016

10 V.S.A. Chapter 55

§ 1571. Definitions

1. Subdivision (3), “Combined sewer separation facilities,” is repealed because the term is now included in the definition of “water pollution abatement and control facilities.”
2. Under subdivision (6), the term “pollution abatement facilities” is changed to “water pollution abatement and control facilities” and the definition is been expanded to include all projects to address surface water pollution problems. The purpose of expanding the definition is to broaden the scope of projects that the Agency may provide grants to and consolidate the grant awards process.
3. Under subdivision (7), the term “*potable* water supply facilities” is updated to “*public* water supply systems” because the definition is limited to public water systems, but the word “potable” is typically associated with non-public systems in the context of drinking water.

§ 1572. Coordinated Review

- This section is repealed because the Department of Health (DOH) no longer has a statutory responsibility to review public water supply projects. When this section was originally adopted DOH regulated public water systems and the Department of Environmental Conservation (DEC) managed the funding. Now DEC funds and regulates such systems.

§ 1591. Planning

1. This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.
2. Under subsection (b), the reference to “funds provided under this chapter” is struck because the funds are provided under Chapter 120. Under the planning subchapter the Secretary may simply “provide funds” to undertake planning.
3. Subsection (c) is moved to this section from § 1628 because it is more appropriate to include this provision in this section since it concerns engineering planning advances, rather than the priority system.

§ 1593. Award of Advance

1. This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.

2. Subsection (a) contains a change clarifying that planning awards shall be made *according to* standards established by the Department.
3. Subdivision (a)(3) is repealed because combined sewer separation facilities are now included under subdivision (a)(2)'s "water pollution abatement and control facilities."
4. Under subdivision (b)(2) the second half of the sentence is struck because requiring a municipality to show that "funds are not readily available through other established planning and design programs" may be difficult for a municipality to demonstrate.

§ 1595. Repayment of Advances

1. This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.
2. This section allows for repayment of advances from the *initial payments* of construction grants or *loans authorized* by the Department.

§ 1621. Financial Assistance

- This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.

§ 1622. Eligible Projects

1. Subdivision (1) is amended to more specifically list the eligible public water supply project costs. Additionally, the provision regarding water supply grants is struck because grants for public water supply projects were contingent upon a municipality having voted for bonds for the project prior to April 5, 1997, and thus, this provision is no longer applicable. Finally, the provision regarding \$3,000.00 grant allowances for administrative and legal costs has also been struck because those costs are now loan eligible.
2. Subdivision (2) is amended to cover "water pollution abatement and control facilities" and to list eligible project costs. The provision regarding \$3,000.00 grant allowances for administrative and legal costs has also been struck because those costs are now loan eligible.
3. Additionally, subdivisions (2)(B), (2)(C), and (3) are struck because grants for those project types are covered as "water pollution abatement and control facilities" and loans for those project types have been consolidated under Chp. 120.
4. The requirement that water pollution abatement projects be in conformance with Act 250 has been moved to a more appropriate section, the section regarding grants, 1626b.

§ 1623. Application

- The language in this section is struck because it would allow a municipality to take on debt without prior voter approval.

§ 1624. Financial Assistance with Water Supply Projects

1. This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.
2. Subsection (a) regarding water supply grants is struck because grants for public water supply projects were contingent upon a municipality having voted for bonds for the project prior to April 5, 1997, and thus, this provision is no longer applicable.
3. In subdivision (b)(6), the last sentence regarding adjusting census data is struck because it is no longer applicable. Median household income is now released annually by the US Census Bureau.
4. In subdivision (b)(7), the language regarding “80 percent of the average marketable obligations of the state” is struck because it is unclear what it means. It is replaced with “the market interest rate,” which is the term used in the federal regulations regarding Drinking Water State Revolving Funds (40 C.F.R. § 35.3525(a)(1)).
5. Subsection (c) is repealed because this specific language regarding zebra mussel control is not necessary. Such projects are already loan eligible.

§ 1624a. Awards for Pollution Abatement Projects for Combined Sewer Overflows

- This section is repealed because the grants previously provided under this section are now consolidated under section 1626b and the loans are consolidated under Chp. 120. Note the subsection (c) includes provisions for “designated job development zones,” but these provisions are no longer applicable. The designation was a special program that ran from 1985-1992. Under 10 V.S.A. § 691-698, the Agency of Commerce and Community Development could designate up to three municipalities as “job development zones;” however, the designations expired as of December 31, 1992 (10 V.S.A. § 696).

§ 1625. Awards for Pollution Abatement Projects to Abate Dry Weather Flows

- This section is repealed because the grants previously provided under this section are now consolidated under section 1626b.

§ 1626a. Awards for Wastewater Treatment Plants with a Capacity of 250,000 or More Per Day

- This section is repealed because the grants previously provided under this section are now consolidated under section 1626b and the loans are consolidated under Chp. 120.

§ 1626b. Municipal Water Pollution Control Grants

- This new section creates one consolidated process for awarding all grants to municipalities for projects to address surface water issues. The section lays out minimum application requirements, then states that the priority system will be used to determine those projects eligible for grants, and then states how the percentage of grant award will be determined. The section allows for grants of up to 35% of eligible project costs. The

section provides minimum water quality and affordability criteria that the Secretary must consider when determining grant amount.

§ 1628. Priorities

1. The second sentence is regarding town school districts and engineering planning advances is struck. The Agency would like to ensure the focus of the priority system is on water quality and affordability criteria.
2. The last sentence of this section is moved to § 1591.

§ 1632. State Administrative Departments

- This section updates to terms consistent with the new definitions for the chapter.

24 V.S.A. Chapter 120

§ 4751. Declaration of Policy

1. This section contains updates to terms consistent with the new definitions for the chapter.
2. The changes to this section also consolidate the two previous sentences into one succinct overarching policy statement.

§ 4752. Definitions

1. This section contains stylistic updates.
2. Under subdivision (11), the term “water pollution abatement and control facilities” has been added to cover the vast array of projects to address surface water issues. The purpose of adding this definition is to broaden the scope of projects that the Agency may provide loans to.

§ 4753. Revolving Loan Funds; Authority to Spend; Report

1. Under subdivision (a)(1), the projects eligible for loans under the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund have been expanded to cover “water pollution abatement and control facilities” consistent with federal law. Additionally, consistent with the changes to the definition of “treatment works” under 33 U.S.C. § 1292, this subsection is amended to allow loans for the acquisition of land and interests in land for projects.
2. Under subdivision (a)(2), the same changes made to (a)(1) are made for the Vermont Pollution Control Revolving Fund.
3. Under subsection (a)(3), consistent with the provisions of 42 U.S.C. § 300j-3c, this subsection is amended to allow loans for the acquisition of land and interests in land for construction of projects.

4. Under subdivision (a)(5), the language “after project construction is substantially completed” is struck because loans granted under this Fund for asset management planning do not have related construction and thus, should be forgiven upon approval of the plan.
5. Under subdivision (a)(10), this amendment gives the Secretary greater flexibility in the use of the fees collected for potable water supply and wastewater permits issued under 10 V.S.A. Chp. 64.
6. Under subsection (b), the reference to subdivision (a)(5) is added because planning loans for privately owned water systems also come from the Vermont Drinking Water Planning Loan Fund and are administered by VEDA.
7. Subsection (d) is repealed because those project types are now simply consolidated under subdivisions (a)(1) and (2).

§ 4753a. Awards from Revolving Loan Funds

1. This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.
2. Subsection (b) is repealed because it’s no longer applicable (it required submittal of a report in 2000).
3. Subsections (d) and (e) regarding loan forgiveness for loans from the Vermont Environmental Agency Pollution Control Revolving Fund and Vermont Environmental Protection Agency Drinking Water State Revolving Fund require that the loans forgiven consist only of federal funds. This has caused huge administrative difficulties for the Program because state and federal funds are blended. The provision is not necessary and thus, is struck.

§ 4754. Loan Application

- This section contains stylistic updates and updates to terms consistent with the new definitions for the chapter.

§ 4755. Loan; Loan Agreements

1. This section contains stylistic updates.
2. The second half of subdivision (a)(3)(A) is struck because the Agency proposes to repeal § 1624a, Awards for Pollution Abatement Projects for Combined Sewer Overflows.
3. In subdivision (a)(5), the language regarding “80 percent of the average marketable obligations of the state” is struck because it is unclear what it means. It is replaced with “the market interest rate,” which is the term used in the federal regulations regarding Clean Water State Revolving Funds (40 C.F.R. § 35.3120(b)).
4. Subsection (d) is repealed because it’s no longer applicable (it required submittal of a report in 2003).

§ 4758. Loan Priorities

1. This section contains stylistic updates.
2. Subdivisions (a)(1)-(6) and subsection (b) are struck because the Agency proposes to rely upon the priority system adopted via rule to determine which projects shall receive financing.

Sec. 10. Report on Loans to Private Entities for Water Pollution Abatement and Control Facilities

- This section requires the Agency to research and develop a report on providing loans to private entities for water pollution abatement and control facilities.