

H.595: An Act Relating to Potable Water Supplies from Surface Waters
Section by Section Summary

A. HOUSE PASSED BILL

Sec. 1. 10 V.S.A. § 1978(a): ANR Potable Water Supply Required Rulemaking Authority

- Directs ANR to adopt rules authorizing surface water as a potable water supply for residences.

Sec. 2. 10 V.S.A. § 1981: Surface Water Source; Potable Water Supply

- Designate requirements for ANR approval of surface water sources as potable water supplies.
 - SNRE amends this section to require compliance with criteria adopted by ANR by rule.

Sec. 3. Surface Water Source; Rulemaking

- Directs ANR to adopt by July 1, 2017 rules for use of surface water as a potable water supply.

B. SENATE PROPOSAL OF AMENDMENT

Sec. 4. 10 V.S.A. § 1982. Testing of Groundwater Sources

- Requires a person who owns or controls a groundwater source to test it for specific parameters prior to use as a potable water supply.
 - The source shall be tested for arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite; fluoride, manganese, and other ANR-required parameters under rule.
- ANR may by rule require testing for a parameter by region or specific geographic area.
- ANR, after consultation with interested parties, shall adopt a rule regarding when the groundwater source shall be tested; who is authorized to conduct the test; how a water sample will be collected; and any other requirement deemed necessary.

Sec. 5. Timing of ANR Groundwater Source Testing Rules

- Requires ANR to commence rulemaking for groundwater source testing on or before July 1, 2016. Requires the rules to be adopted by January 1, 2017.

Sec. 6. 18 V.S.A. § 501b. Certification of Laboratories

- Requires a laboratory accredited to conduct testing of potable water supplies to submit the results of the test to ANR and the Department of Health.

Sec. 7. 10 V.S.A. § 1283(b). Environmental Contingency Fund (ECF)

- Authorizes ANR to disburse funds from the ECF for investigation and cleanup of hazardous materials by voluntary responsible parties without the requirement that the responsible parties contributed to the fund.

Sec. 8. 10 V.S.A. § 6615c. Information Requests

- Authorizes ANR, prior to initiation of litigation, to require a person who may be liable for a hazardous material release to furnish certain information.
 - The requested information may include: the type of chemical stored at the facility; the nature of any release; and financial information related to the ability to pay for a cleanup.

- A person who receives a request shall allow ANR to access a facility and copy records relating to the request.
- A person who receives a request may assert privileges available under statute, rule, or common law.
- Information that is a trade secret or financial information shall not be public records.
- This information request authority is similar to U.S. EPA's authority under CERCLA.

Sec. 9. 10 V.S.A. § 6615d. Natural Resources Damages

- Authorizes ANR to assess against a person who is liable for a hazardous material release damages for injury, destruction, or loss of natural resources.
 - The measure of the natural resources damages shall include the costs of restoring or rehabilitating the injured, damaged, or destroyed natural resources to its baseline condition.
- ANR shall adopt rules to implement the natural resources damages authority.
- The rules shall include a methodology for assessment and value of natural resources, including requirements for preassessment, damage assessment, and post-damages assessment.
- A person who identified potential natural resources damages in a permit application and who is operating under the terms of the permit would not be subject to natural resources damages.
- The statutory authority to seek natural resource damages does not limit ANR from seeking similar damages under other state, federal, or common law.

Sec. 10. ANR Natural Resource Damages Rules; Commencement

- ANR shall commence the natural resource damages rules by January 1, 2017 and shall conclude rulemaking by November 1, 2017.
- ANR shall submit a draft rule to the General Assembly on or before February 15, 2017.
- ANR shall not seek natural resource damages under 10 VSA 6615d until the rules are adopted.

Sec. 11. 10 V.S.A. § 8005(b). ANR Enforcement Authority

- Amends ANR enforcement authority to authorize enforcement of information requests.

Sec. 12. ANR Working Group on Toxic Chemicals in the State

- Requires ANR to establish a working group of interested parties to develop recommendations for how to improve the ability of the State to:
 - prevent exposure of citizens and communities to toxic chemicals, hazardous materials, or haz. waste;
 - identify and regulate the use of currently unregulated toxic chemicals or hazardous materials; and
 - inform communities and citizens in the State of potential exposure to toxic chemicals, including contamination of groundwater, public drinking water systems, and private potable water supplies.

Sec. 13. Effective Dates

- Much of the bill takes effect on passage, except that: groundwater testing takes effect January 1, 2017; and permitting surface water as a potable water supply takes effect July 1, 2017