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Act No. 135 (H.466). Conservation and development; surface water withdrawals; agricultural withdrawals; registration; reporting; permitting

An act relating to surface water withdrawals and interbasin transfers

This act establishes a program at the Agency of Natural Resources (ANR) for the registration, reporting, and future permitting of surface water withdrawals in the State. Beginning on January 1, 2023, a person withdrawing 10,000 gallons or more of surface water in a 24-hour period or 150,000 gallons of surface water or more in a 30-day period shall register with ANR. The registration shall provide information such as the location, frequency, and rate of the withdrawal. Beginning on January 1, 2023, a person registering a surface water withdrawal shall file an annual report with ANR. The report shall provide the total amount of water withdrawn each month, the location of each withdrawal, the daily maximum withdrawal for each month, and the date of daily maximum withdrawal. Certain surface water withdrawals would be exempt from registration and reporting, including withdrawals for fire suppression or public emergency; currently reporting snowmaking withdrawals; withdrawals for public drinking water supply; and withdrawals for irrigation for farming, livestock watering, or other farming uses.

ANR shall adopt rules to implement a surface water withdrawal permit. In developing the rules, ANR shall require a permit based on potential impacts to surface waters or other factors and shall establish conditions of operation necessary to ensure compliance with the Vermont Water Quality Standards (VWQS). The rules shall also consider submitted surface water withdrawal registration and reporting information in establishing thresholds and permit requirements. In addition, the rules would require efficient use and conservation of surface water, establish withdrawal limits based on low-flow or drought, and require assessment of reasonable and feasible alternatives to proposed withdrawals. ANR may issue general permits for withdrawals and shall issue a general permit for withdrawals for State or municipal infrastructure projects. Certain existing withdrawals will be granted additional time to obtain a permit. A permit shall not be required for withdrawals for fire suppression; for emergency response; or for irrigation for farming, livestock watering, or other farming uses.

Beginning on January 15, 2023 and annually thereafter, the act requires any person who withdrew 10,000 gallons or more of surface water within a 24-hour period in the preceding calendar year or 150,000 gallons or more of surface water

over any 30-day period in the preceding calendar year for irrigation, livestock watering, or other farming use to file a report with the Secretary of Agriculture, Food and Markets. The report shall include an estimate of water withdrawn, the location of the withdrawal, and daily maximum withdrawal for each month. The Secretary of Agriculture, Food and Markets annually shall submit the information it collects to ANR, and ANR annually shall submit all information on surface water withdrawals to the General Assembly.

The act also requires ANR to review any transfer of surface water between surface water basins in the State pursuant to the VWQS and other State water quality laws. ANR also may review any other surface water withdrawal that includes the transfer of surface water from one watershed to another watershed to determine if the activity is likely to result in a violation of the VWQS. The act also adds surface water withdrawal requirements to the list of State laws that ANR must review when issuing a Clean Water Act section 401 certification for activities that require federal permits and that may involve a discharge to waters.

Effective Date: July 1, 2022