

1 H.805

2 Introduced by Representatives North of Ferrisburgh and Olson of Starksboro

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water resources; taxation;

6 wastewater; wetlands; stormwater

7 Statement of purpose of bill as introduced: This bill proposes to authorize the
8 Secretary of Natural Resources to issue general permits for stormwater
9 discharges, wetlands activity, and wastewater systems and potable water
10 supplies when the proposed activity will have a minor impact and a licensed
11 engineer certifies that the proposed activity complies with the permit rules.

12 The bill also would require the Secretary of Natural Resources to identify by
13 rule criteria or technical standards for a potable water supply or wastewater
14 system permit for an owner-occupied residence that shall be waived or reduced
15 if the permit applicant can demonstrate alternative, engineered solutions that
16 mitigate the possible harm from a failed wastewater system or potable water
17 supply or the applicant files with the permit a statement assuming all liability
18 for all damages incurred from the installation or failure of the wastewater
19 system or potable water supply. In addition, the bill would require that a
20 portion of a parcel owned by a resident of the State containing wetlands or Tier

1 3 lands be valued for taxation at the lesser of the fair market value of the
2 portion of the parcel or of the use value of forest land.

3 An act relating to water resources of the State

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 Sec. 1. 10 V.S.A. § 913 is amended to read:

6 § 913. PROHIBITION

7 (a)(1) Except for allowed uses adopted by the Department by rule, no
8 person shall conduct or allow to be conducted an activity in a significant
9 wetland or buffer zone of a significant wetland except in compliance with a
10 permit, conditional use determination, or order issued by the Secretary.

11 (2) The Department shall issue general permits for classes of activity in
12 a significant wetland or the buffer zone of a significant wetland that do not
13 require Department review when the activity will have only a minor
14 disturbance on the wetland. The Secretary shall give deference to a
15 certification by a licensed engineer with respect to the engineering design of an
16 allowed use in a wetland or to judgment exercised by the engineer, provided
17 that the licensed engineer certifies that, in the exercise of the engineer's
18 reasonable professional judgment, the information submitted with the permit
19 application is true and correct and the activity proposed in the permit

1 application complies with the rules adopted under this chapter regarding
2 activity in a wetland.

3 (b) A permit shall not be required under this section for:

4 (1) any activity that occurred before the effective date of this section
5 unless the activity occurred within:

6 (A) an area identified as a wetland on the Vermont significant
7 wetlands inventory maps;

8 (B) a wetland that was contiguous to an area identified as a wetland
9 on the Vermont significant wetlands inventory maps; or

10 (C) the buffer zone of a wetland referred to in subdivision (A) or (B)
11 of this subdivision (1);

12 (2) any construction within a wetland that is identified on the Vermont
13 significant wetlands inventory maps or within the buffer zone of such a
14 wetland, provided that the construction was completed prior to February 23,
15 1992, and no action for which a permit is required under the rules of the
16 Department was taken or caused to be taken on or after February 23, 1992.

17 Sec. 2. 10 V.S.A. § 1264(g) is amended to read:

18 (g) General permits.

19 (1) The Secretary may issue general permits for classes of stormwater
20 runoff that shall be adopted and administered in accordance with the provisions
21 of subsection 1263(b) of this title.

* * *

(4) The Secretary shall issue a general permit under this subsection for minor construction, development, or expansion of impervious surface that does not require review by the Secretary where the risk of harm from stormwater runoff is low. The Secretary shall give deference to a certification by a licensed engineer with respect to the engineering design of a stormwater system under this section or to judgment exercised by the licensed engineer, provided that the licensed engineer certifies that, in the exercise of the engineer's reasonable professional judgment, the information submitted with the permit application is true and correct and the design or mitigation proposed in the permit application complies with the rules adopted under this chapter regarding management of stormwater runoff.

Sec. 3. 10 V.S.A. § 1973 is amended to read:

§ 1973. PERMITS

(a) Except as provided in this section and sections 1974 and 1978 of this title, a person shall obtain a permit from the Secretary before:

(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 designer in order to minimize Agency review of certified designs. Nothing in
2 this section shall limit the responsibility of the licensed designer to comply
3 with all standards and rules, or the authority of the Secretary to review and
4 comment on design aspects of an application or to enforce Agency rules with
5 respect to the design or the design certification.

6 * * *

7 (3) The Secretary may issue general permits for classes of activity that
8 require a permit under subsection (a) of this section that do not require
9 Department review when the activity will pose only a minor risk of harm to
10 human health or the environment.

11 (4) The Secretary shall issue a permit under this chapter for a potable
12 water supply or wastewater system serving a residential flow of 1,000 gallons
13 per day or less after reviewing the design-related information submitted by a
14 licensed designer only for administrative compliance with the requirements of
15 this chapter and the rules adopted under this chapter.

16 (g) If there is a dispute between the Secretary and a professional engineer
17 concerning the design prepared by a professional engineer or the judgment
18 exercised by a professional engineer, the professional engineer may request
19 that the disputed issues be reviewed by a licensed professional engineer
20 employed or retained by the Secretary. The Secretary shall grant all such
21 requests for review.

* * *

Sec. 4. 10 V.S.A. § 1978 is amended to read:

§ 1978. RULES

(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules shall include the following:

(1) Performance standards for wastewater systems.

(2) Design flow standards for potable water supplies and wastewater systems.

(3) Design requirements, including isolation distances.

(4) Monitoring and reporting requirements.

(5) Soils and hydrogeologic requirements.

(6) Operation and maintenance requirements appropriate to the complexity of the system.

(7) Requirements for engineering plans and specifications for potable water supplies and wastewater systems.

(8) Provisions for the acceptance and approval of alternative or innovative technologies, based on performance evaluations provided by qualified organizations with expertise in wastewater systems, including the New England Interstate Water Pollution Control Commission.

1 (9) Provisions allowing the use of a variety of alternative or innovative
2 technologies, including intermittent sand filters, recirculating sand filters,
3 waterless toilets, and greywater disposal systems, and constructed wetlands,
4 that provide an adequate degree of protection of human health and the
5 environment. When alternative or innovative technologies are approved for
6 general use, the rules shall not require either a bond or the immediate
7 construction of a duplicate wastewater system for those alternative or
8 innovative technologies.

9 (10) Provisions allowing for appropriate reductions in leachfield size,
10 depth to the seasonal high water table, or other minimum site conditions when
11 the wastewater system design does not solely rely on naturally occurring soils
12 to provide an adequate degree of treatment, and when those systems, combined
13 with the reductions, provide an adequate degree of protection of human health
14 and the environment.

15 (11) Provisions allowing for experimental systems.

16 (12) Provisions regarding the licensing of certain classes of designers.

17 (13) Provisions regarding the delegation of authority to and removal of
18 authority from a municipality to administer this chapter.

19 (14) Other requirements necessary to protect human health and the
20 environment.

(b) The Secretary may, by rule, establish permitting exemptions upon a determination that those exemptions are consistent with the purposes of this chapter, and are necessary for the appropriate implementation of this chapter.

(g)(1) The Secretary shall, by rule, identify criteria or technical standards for a permit for owner-occupied residences issued under this chapter that shall be waived or reduced if:

(B) the applicant files with the permit and other documents required under subsection 1973(h) of this title to be filed in the town records a statement assuming all liability for all damages incurred from the installation or failure of the wastewater system or potable water supply.

(2) The rule required under this subsection shall allow for reduced length of a mound wastewater system and reduced isolation distances between wastewater systems and potable water supplies.

1 Sec. 5. 32 V.S.A. § 3622 is added to read:

2 § 3622. LAND WITH STATE-IMPOSED DEVELOPMENT

3 RESTRICTIONS

4 (a) The portion of a parcel of land owned by a resident of the State that is
5 wetlands or Tier 3 land shall be valued at the lesser of:

6 (1) fair market value; or

7 (2) the use value of forest land, as determined by the Current Use
8 Advisory Board for the current year.

9 (b) As used in this section:

10 (1) “Tier 3 land” means land determined to be part of a Tier 3 area
11 pursuant to 10 V.S.A. chapter 151 and any related administrative rules.

12 (2) “Wetlands” means land listed as Class I wetlands by administrative
13 rule, land mapped as Class II wetlands on the Vermont Significant Wetlands
14 Inventory, or land determined by the Secretary of Natural Resources to be
15 significant wetlands under 10 V.S.A. § 914. “Wetlands” includes buffer zones
16 required by the Secretary of Natural Resources around Class I and II wetlands.

17 Sec. 6. 1 V.S.A. § 312 is amended to read:

18 § 312. RIGHT TO ATTEND MEETINGS OF PUBLIC BODIES

19 (a)(1) All meetings of a public body are declared to be open to the public at
20 all times, except as provided in section 313 of this title. No resolution, rule,
21 regulation, appointment, or formal action shall be considered binding except as

1 taken or made at such open meeting, except as provided under subdivision
2 313(a)(2) of this title. A meeting of a public body is subject to the public
3 accommodation requirements of 9 V.S.A. chapter 139. A public body shall
4 electronically record all public hearings held to provide a forum for public
5 comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall
6 have access to copies of such electronic recordings as described in section 316
7 of this title.

8 * * *

9 (g) The provisions of this subchapter shall not apply to site inspections for
10 the purpose of assessing damage or making tax assessments or abatements,
11 clerical work, or work assignments of staff or other personnel. Routine, day-
12 to-day administrative matters that do not require action by the public body may
13 be conducted outside a duly warned meeting, provided that no money is
14 appropriated, expended, or encumbered. Site visits by a District Commission
15 or its members as part of the permitting process under 10 V.S.A. chapter 151
16 are not subject to the requirements of this subchapter.

17 * * *

18 Sec. 7. EFFECTIVE DATE

19 This act shall take effect on July 1, 2026.