

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Environment to which was referred Senate Bill No. 212
3 entitled “An act relating to potable water supply and wastewater system
4 connections” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. 10 V.S.A. § 1971 is amended to read:

9 § 1971. PURPOSE

10 It is the purpose of this chapter to:

11 (1) establish a comprehensive program to regulate the construction,
12 replacement, modification, and operation of potable water supplies and
13 wastewater systems in the State in order to protect human health and the
14 environment, including potable water supplies, surface water, and
15 groundwater;

16 * * *

17 (6) allow ~~delegation of the permitting program created by this chapter to~~
18 ~~municipalities demonstrating the capacity to administer the chapter~~ review of
19 potable water supply and wastewater system connections pursuant to general
20 permits adopted under this chapter.

21 Sec. 2. 10 V.S.A. § 1972 is amended to read:

22 § 1972. DEFINITIONS

1 disposal system of less than 6,500 gallons per day, or a ~~sewerage~~ sanitary
2 sewer collection system connection of any size.

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

4 § 1973. PERMITS

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

7 * * *

8 (7) making a new or modified connection to a new or existing potable
9 water supply or wastewater system; or

10 * * *

11 (f)(4) The Secretary shall give deference to a certification by a licensed
12 designer with respect to the engineering design or judgment exercised by the
13 designer in order to minimize Agency review of certified designs. Nothing in
14 this section shall limit the responsibility of the licensed designer to comply
15 with all standards and rules, or the authority of the Secretary to review and
16 comment on design aspects of an application or to enforce Agency rules with
17 respect to the design or the design certification.

18 ~~(2) The Secretary shall issue a permit for a new or modified connection~~
19 ~~to a water main and a sewer main or indirect discharge system from a building~~
20 ~~or structure in a designated downtown development district upon submission~~
21 ~~of an application under subsection (b) of this section that consists solely of the~~
22 ~~certification of a licensed designer, in accordance with subsection (d) of this~~

1 ~~section, and a letter from the owner of the water main and sewer main or~~
2 ~~indirect discharge system allocating the capacity needed to accommodate the~~
3 ~~new or modified connection. However, this subdivision (2) shall not apply if~~
4 ~~the Secretary finds one of the following:~~

5 ~~(A) The Secretary has prohibited the system that submitted the~~
6 ~~allocation letter from issuing new allocation letters due to a lack of capacity.~~

7 ~~(B) As a result of an audit of the application performed on a random~~
8 ~~basis or in response to a complaint, the system is not designed in accordance~~
9 ~~with the rules adopted under this chapter.~~

10 * * *

11 (k)(1) The Secretary shall adopt a general permit for both potable water
12 supply and wastewater system connections that require a permit under this
13 chapter. Under the general permit, the Secretary may give deference to
14 applications for connections certified by a licensed designer. The Secretary
15 shall publish a manual providing guidance to licensed designers implementing
16 the general permit for potable water supply or wastewater system connections.
17 The manual shall include guidance for determining or defining the capacity of
18 a public water system or pollution abatement facility for purposes of approving
19 a potable water supply or wastewater system connection.

20 (2) The Secretary may adopt a general permit under this chapter for the
21 subdivision of land when no building, structure, or campground exists on or is
22 proposed for the property at the time of subdivision.

1 (3) The Secretary may adopt a general permit under this chapter for
2 boundary line adjustments for improved or unimproved lots.

3 (4) The Secretary may adopt a general permit for the permitting under
4 this chapter of potable water supply systems with a design flow of less than
5 1,000 gallons per day and there is no requirement for any variance,
6 hydrogeologic analysis, or yield testing of a potable water source.

7 (5) The Secretary may adopt a general permit under this chapter for
8 wastewater systems that:

9 (A) have a design flow of less than 1,000 gallons per day; and

10 (B) do not require innovative or alternative technologies unless
11 allowed by the Secretary, a variance, or a hydrogeologic analysis.

12 Sec. 4. 10 V.S.A. § 1976 is amended to read:

13 § 1976. DELEGATION OF CONNECTION PERMITTING AUTHORITY
14 TO MUNICIPALITIES

15 (a)(1) ~~The Secretary may delegate to a municipality authority to:~~

16 ~~(A) implement all sections of this chapter, except for sections 1975~~
17 ~~and 1978 of this title; or~~

18 ~~(B) implement permitting under this chapter for the subdivision of~~
19 ~~land, a building or structure, or a campground when the subdivision, building~~
20 ~~or structure, or campground is served by sewerage connections and water~~
21 ~~service lines, provided that:~~

1 ~~(i) the lot, building or structure, or campground utilizes both a~~
2 ~~sanitary sewer service line and a water service line; and~~

3 ~~(ii) the water main and sanitary sewer collection line that the water~~
4 ~~service line and sanitary sewer service line are connected to are owned and~~
5 ~~controlled by the delegated municipality.~~

6 ~~(2) If a municipality submits a written request for delegation of this~~
7 ~~chapter, the Secretary shall delegate authority to the municipality to implement~~
8 ~~and administer provisions of this chapter, the rules adopted under this chapter,~~
9 ~~and the enforcement provisions of chapter 201 of this title relating to this~~
10 ~~chapter, provided that the Secretary is satisfied that the municipality:~~

11 ~~(A) has established a process for accepting, reviewing, and processing~~
12 ~~applications and issuing permits, that shall adhere to the rules established by~~
13 ~~the Secretary for potable water supplies and wastewater systems, including~~
14 ~~permits, by rule, for sewerage connections;~~

15 ~~(B) has hired, appointed, or retained on contract, or will hire, appoint,~~
16 ~~or retain on contract, a licensed designer to perform technical work that must~~
17 ~~be done by a municipality under this section to grant permits;~~

18 ~~(C) will take timely and appropriate enforcement actions pursuant to~~
19 ~~the authority of chapter 201 of this title;~~

20 ~~(D) commits to reporting annually to the Secretary on a form and date~~
21 ~~determined by the Secretary;~~

1 ~~(E) will only issue permits for water service lines and sanitary sewer~~
2 ~~service lines when there is adequate capacity in the public water supply system~~
3 ~~source, wastewater treatment facility, or indirect discharge system; and~~

4 ~~(F) will comply with all other requirements of the rules adopted under~~
5 ~~section 1978 of this title~~ The Secretary may delegate to a municipality
6 authority to conduct technical review of proposed projects that include both
7 municipal potable water supply and municipal wastewater system connections
8 that require a permit under this chapter, provided that the water main and
9 sanitary sewer collection line that the water service line and sanitary sewer
10 service line are connected to are owned and controlled by the delegated
11 municipality. Municipalities delegated authority under this section shall
12 incorporate the requirements of the Secretary’s general permit for potable
13 water supply and wastewater system connections into a municipal connection
14 approval, including deference to applications for connections certified by a
15 licensed designer.

16 (2) If a municipality submits a request for delegation of authority under
17 this subsection, the Secretary shall delegate authority to the municipality to
18 implement and administer the provisions of this chapter governing municipal
19 potable water supply and wastewater system connections, provided that the
20 municipality:

21 (A) is qualified to perform the technical review as determined by the
22 Secretary;

1 (i) The Secretary shall not process an application for which the applicable
2 fee has not been paid unless the Secretary specifies that the fee may be paid at
3 a different time or unless the person applying for the permit is exempt from the
4 permit fee requirements pursuant to 32 V.S.A. § 710. Municipalities shall be
5 exempt from the payment of fees under this section except for those fees
6 prescribed in subdivisions (j)(1), (7), (8), (14), and (15) of this section for
7 which a municipality may recover its costs by charging a user fee to those who
8 use the permitted services. Municipalities shall pay fees prescribed in
9 subdivisions (j)(2), (10), (11), (12), and (26) of this section, except that a
10 municipality shall also be exempt from those fees for stormwater systems
11 prescribed in subdivisions (j)(2)(A)(iii)(I), (II), or (IV) and (j)(2)(B)(iv)(I), (II),
12 or (V) of this section for which a municipality has assumed full legal
13 responsibility under 10 V.S.A. § 1264. Municipalities that conduct a technical
14 review or approval of a potable water supply or wastewater system connection
15 permitted under 10 V.S.A. § 1976 within the municipality may charge a fee for
16 the cost of municipal services, provided that the municipality shall pay an
17 administrative processing fee of \$100.00 for submission to the Secretary of
18 Natural Resources of documentation of the municipally permitted project.

19 (j) In accordance with subsection (i) of this section, the following fees are
20 established for permits, licenses, certifications, approvals, registrations, orders,
21 and other actions taken by the Agency of Natural Resources.

22 * * *

1 (4) For potable water supply and wastewater permits issued under
2 10 V.S.A. chapter 64. Projects under this subdivision include: a wastewater
3 system, including a sewerage connection; and a potable water supply,
4 including a connection to a public water supply:

5 (A) Original applications, or major amendments for a project that is
6 not a potable water supply or wastewater system connection with the following
7 proposed design flows. In calculating the fee, the highest proposed design
8 flow whether wastewater or water shall be used:

9 (i) design flows 560 gpd or less: \$306.25 per application;

10 (ii) design flows greater than 560 and less than or equal to 2,000
11 gpd: \$870.00 per application;

12 (iii) design flows greater than 2,000 and less than or equal to
13 6,500 gpd: \$3,000.00 per application;

14 (iv) design flows greater than 6,500 and less than or equal to
15 10,000 gpd: \$7,500.00 per application; or

16 (v) design flows greater than 10,000 gpd: \$13,500.00 per
17 application.

18 (B) Minor amendments: \$150.00.

19 (C) Minor projects: \$270.00.

20 As used in this subdivision (j)(4)(C), “minor project” means a project
21 that meets the following: there is an increase in design flow but no
22 construction is required; there is no increase in design flow but construction is

1 required, excluding replacement potable water supplies and wastewater
2 systems; or there is no increase in design flow and no construction is required,
3 excluding applications that contain designs that require technical review.

4 (D) Notwithstanding the other provisions of this subdivision (4),
5 when a project is located in a Vermont neighborhood, as designated under
6 24 V.S.A. chapter 76A, the fee shall be ~~no~~ not more than \$50.00 in situations
7 in which the application has received an allocation for sewer capacity from an
8 approved municipal system. This limitation shall not apply in the case of fees
9 charged as part of a duly delegated municipal program.

10 (E) Original applications or major amendments for coverage under a
11 potable water supply and wastewater system connection general permit issued
12 under 10 V.S.A. § 1973(k)(1), the following fee according to the highest
13 proposed design flow of wastewater or water for the connection:

14 (i) design flows below 2,000 gpd: \$250.00 per application;

15 (ii) design flows of between 2,000 gpd and 6,500 gpd: \$2,500.00
16 per application; or

17 (iii) design flows greater than 6,500 gpd: \$5,000.00 per
18 application.

19 * * *

20 Sec. 6. IMPLEMENTATION; REPEAL OF EXEMPTIONS IN RULE

21 (a) On or before December 1, 2027, the Secretary of Natural Resources
22 shall publish the general permit and manual required under 10 V.S.A.

1 § 1973(k)(1) for potable water supply or wastewater system connections.

2 (b) Beginning on January 1, 2028, the Secretary of Natural Resources shall
3 begin to accept certifications of the connections of potable water supplies and
4 wastewater systems under the general permit required by 10 V.S.A.

5 § 1973(k)(1).

6 (c)(1) The following provisions of the Department of Environmental
7 Conservation’s Wastewater System and Potable Water Supply Rules shall be
8 repealed on January 1, 2028:

9 (A) subdivisions 1-304(15) and (16) (modification of design flows of
10 a wastewater system or potable water supply serving an existing building or
11 structure);

12 (B) subdivision 1-603(2) (related to full delegation of permitting to
13 municipalities); and

14 (C) subdivisions 1-603(8), (9), and (10) (related to recordkeeping by
15 fully delegated municipalities).

16 (2) References in chapter 6 of the Department of Environmental
17 Conservation’s Wastewater System and Potable Water Supply Rules related to
18 full delegation to municipalities of permitting potable water and wastewater
19 system connections are no longer applicable or enforceable due to the repeal of
20 statutory authority for full delegation.

21 Sec. 7. 10 V.S.A. § 1263 is amended to read:

22 § 1263. DISCHARGE PERMITS

1 (a) Any person who intends to discharge waste into the waters of the State
2 or who intends to discharge into an injection well or who intends to discharge
3 into any publicly owned treatment works any waste that interferes with, passes
4 through without treatment, or is otherwise incompatible with that works or
5 would have a substantial adverse effect on that works or on water quality, or is
6 required to apply for a CAFO permit, shall make application to the Secretary
7 for a discharge permit. Application shall be made on a form prescribed by the
8 Secretary. An applicant shall pay an application fee in accordance with
9 3 V.S.A. § 2822.

10 * * *

11 (k)(1) The Secretary may enter into an agreement with the owner of a
12 POTW to delegate to the owner of the POTW authority under this title to
13 regulate pretreatment discharges to the POTW. An agreement entered into by
14 the Secretary under this subsection shall authorize the owner of the POTW to
15 regulate and enforce pretreatment discharges to the POTW consistent with the
16 authority set forth in 40 C.F.R. Part 40, including the establishment of
17 applicable civil, criminal, or administrative penalties for the violation of
18 pretreatment standards or requirements. The owner of a POTW that the
19 Secretary enters into an agreement with under this subsection may, as part of
20 the agreement, set application fees and other fees necessary for the regulation
21 of a pretreatment discharge to the POTW. The Environmental Division shall
22 have the same jurisdiction to review the actions of the owner of the POTW

1 delegated pretreatment authority by an agreement under this subsection and to
2 hear appeals as the Environmental Division’s jurisdiction over the Secretary’s
3 actions. The jurisdiction of the Environmental Division shall be construed
4 broadly with respect to review of the actions of an owner of a POTW delegated
5 pretreatment authority under this subsection.

6 (2) As used in this subsection:

7 (A) “Pretreatment” means the reduction of the amount of pollutants,
8 the elimination of pollutants, or the alteration of the nature of pollutant
9 properties in wastewater prior to or in lieu of discharging or otherwise
10 introducing pollutants into a POTW. Pretreatment includes those processes or
11 technologies authorized under 40 C.F.R. § 403.3(s).

12 (B) “Pretreatment discharge” means the introduction of pollutants
13 into a POTW from any nondomestic source regulated under 33 U.S.C.
14 § 1317(b), (c), or (d).

15 (C) “Publicly owned treatment works” or “POTW” has the same
16 meaning as in 40 C.F.R. § 403.3(r).

17 Sec. 8. CONTINGENT EFFECTIVE DATE

18 Sec. 7 (municipal pretreatment authority) shall take effect upon the U.S.
19 Environmental Protection Agency notifying the Secretary of Natural Resources
20 that the Agency of Natural Resources is authorized to enter into a
21 memorandum of understanding with a municipality to administer a
22 pretreatment program under the Modification to National Pollutant Discharge

1 Elimination System Memorandum of Agreement Between the State of
2 Vermont and the U.S. Environmental Protection Agency, Region 1, March 16,
3 1982, or other agreement between the U.S. Environmental Protection Agency
4 and the Agency of Natural Resources. The Secretary of Natural Resources
5 shall notify the Clerk of the House of Representatives and the Secretary of the
6 Senate when the U.S. Environmental Protection Agency authorizes municipal
7 administration of a pretreatment program.

8 Sec. 9. EFFECTIVE DATE

9 This act shall take effect on passage.

10

11

12

13

14

15

16 (Committee vote: _____)

17

18

Representative _____

19

FOR THE COMMITTEE