

S.212. An Act Relating to Potable Water Supply and Wastewater System Connections

Section by Section Summary of House Environment Proposal of Amendment

Sec. 1. 10 V.S.A. § 1971. Purpose of Potable Water Supply and Wastewater System Chapter

- Sec. 1 amends the purpose section for the chapter to strike reference to full delegation of permitting to municipalities and to replace it with a purpose of allowing review of potable water supply and wastewater system connections under general permits.
 - Full delegation is repealed as only 2 municipalities attempted it. Both surrendered delegation to ANR.

Sec. 2. 10 V.S.A. § 1972. Definitions Section for Potable Water Supply and Wastewater

- In 10 V.S.A. § 1972(6), the bill clarifies that a “potable water supply” includes a service connection to a public water system of any size.
- In § 1972(10), in the definition of “wastewater system”, the bill replaces the term “sewerage system” with the more modern and technically correct, “sanitary sewer collection system”.

Sec. 3. 10 V.S.A. § 1973. Potable Water Supply and Wastewater System Permits

- Sec. 3 first strikes a previous attempt by the legislature in § 1973(f)(2) to address water supply and wastewater system connections. This previous language required ANR to issue a connection permit in designated downtowns when a licensed designer certified the application and the town issued a letter stating the system had capacity for the connection. No town exercised this option.
- Sec. 3, 10 V.S.A. § 1973(k)(1), requires ANR to adopt a general permit for both potable water supply and wastewater system connections that require a permit under the chapter.
 - Under the permit, ANR may give deference to connection applications certified by a licensed designer.
 - ANR shall publish a manual providing guidance to licensed designers implementing the general permit for connections, including guidance for determining the capacity of a water system or abatement facility.
- Sec. 3, 10 V.S.A. § 1973(k)(2)-(5) authorizes ANR to adopt general permits for other activities that require a potable water supply or wastewater system permits. Those activities are:
 - § 1973(k)(2): Subdivision of land when no building, structure, or campground exists on or is proposed for the property at the time of subdivision.
 - § 1973(k)(3): Boundary line adjustments for improved or unimproved lots.
 - § 1973(k)(4): Permitting potable water supply systems with a design flow of less than 1,000 gpd when there is no requirement for a variance, hydrogeologic analysis, or yield testing of a water source.
 - § 1973(k)(5): Permitting of wastewater systems that: (A) have a design flow of less than 1,000 gpd; and (B) do not require a variance, a hydrogeologic analysis, or innovative or alternative technologies unless such technologies are allowed by the Secretary.

Sec. 4. 10 V.S.A. § 1976. Delegation of Connection Permitting

- Sec. 4, first repeals the authority in 10 V.S.A. § 1976(a) for full delegation of potable water supply and wastewater system permitting to a municipality. Only 2 municipalities were delegated, and both surrendered it back to ANR.
- Sec. 4 does allow for partial delegation of connection permitting to municipalities provided that:
 - The water main and sanitary sewer collection line connected to are owned and controlled by the delegated municipality.
 - Municipalities delegated authority incorporate the requirements of ANR's general permit for potable water supply and wastewater system connections into a municipal connection approval, including deference to applications for connections certified by a licensed designer.
 - The municipality is qualified to perform the technical review as determined by the Secretary.
 - The municipality receives authorization from the municipal legislative body to administer a program for review of potable water supply and wastewater system connections.
 - The municipality meets any other requirement for delegation adopted by ANR in writing.
 - The municipality only will issue permits when there is adequate capacity in the water system, wastewater treatment facility, or indirect discharge system.
 - The municipality submits documentation of the permitted project to ANR.
 - The municipality complies with the requirements for connection in ANR's rules.

Sec. 5. 3 V.S.A. § 2822. Permit Fees

- Sec. 5 first allows municipalities that conduct a technical review or approval of a potable water supply or wastewater system connection permitted under 10 V.S.A. § 1976 within the municipality to charge a fee for the cost of municipal services, provided that the municipality shall pay an administrative processing fee of \$100 for submission to ANR of documentation of a municipally permitted project.
- Sec. 5 strikes a fee cap for a wastewater system connection permit for projects located in designated neighborhoods. As the scope of designated neighborhoods is expanding, ANR could lose up to \$500,000 in permit fees if this fee cap remains.
- Sec. 5 then sets the fees for a general permit for a potable water supply and wastewater system connection under the general permit, as follows.
 - For design flows below 2,000 gpd: the fee is \$250.00 per application.
 - For design flows of between 2,000 gpd and 6,500 gpd: the fee is \$2,500.00 per application.
 - For design flows greater than 6,500 gpd: the fee is \$5,000.00 per application.

Sec. 6. Implementation; Repeal of Exemptions In Rule

- Sec. 6 repeals provisions in DEC's Wastewater System and Potable Water Supply Rules related to municipal delegation or connections that are no longer relevant due to the amendments in the bill.

Sec. 7. 10 V.S.A. § 1263. Pretreatment Discharge

- Sec. 7 allows ANR to delegate to the owner of a POTW the authority to permit pretreatment discharges.
 - A POTW (Publicly Owned Treatment Works) is any device or systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances if they convey wastewater to a POTW Treatment Plant.
 - “Pretreatment discharge” means the introduction of pollutants into a POTW from any nondomestic source.
- Once an owner of a POTW is delegated, the owner assumes permitting authority, enforcement (including civil and criminal penalties), and authority to set application fees.
- The Environmental Division would have jurisdiction over appeals of the acts of the delegated owner of a POTW.
- Delegation of pretreatment discharge permitting to municipalities or owners of POTWs is fairly common around the country, but Vermont has not done so to date, potentially because of a 1982 agreement with U.S. EPA under which ANR was granted pretreatment authority for the State.
- ANR has had discussions with U.S. EPA about delegation of pretreatment discharges, and U.S. EPA has informally indicated approval, but to date, there has been no formal approval.

Sec. 8. Contingent Effective Date of Pretreatment Delegation

- Sec. 8 makes the delegation authority for pretreatment discharges under Sec. 7 contingent on U.S. EPA formally notifying ANR of authority to delegate the permitting.

Sec. 9. Effective Date

- This act takes effect on passage.