

S.27

Sec. 1 adds a new **consolidated chapter** of law regarding **potable water supplies and wastewater permits**

10 V.S.A. § 1971 establishes the **purposes** of : (1) establishing a comprehensive program relating to water supplies and wastewater systems; (2) eliminating duplication of permits, and using permits by rule; (3) allowing use of alternative, innovative and experimental technologies; (4) allowing flexible remediation of failed systems; (5) increasing reliance on the private sector for design and installation; and (6) allowing delegation of the program to municipalities.

§ 1972 Definitions include

“Building or structure” are those that require a water supply or wastewater system.

“Campground” means more than three campsites of a list of various camping units.

“Failed water supply” is contaminated, provides too little water, or has a broken or inadequate source, treatment or conveyance equipment. A supply is not failed if it can be fixed by minor repairs; or if it is brief, unusual and nonrecurring and the supply has recovered from the state of failure. Seasonal failures indicate a failed supply.

“Failed system” is a wastewater system that: (1) threatens public health, (2) contaminates a potable water supply, or (3) allows wastewater to be exposed to open air, pool on the surface, discharge directly into surface water, or back up into a building (unless according to an approved design.)

A system is not failed if it can be fixed by minor repairs; or if it is brief, unusual and nonrecurring and the system has recovered from the state of failure. Seasonal failures indicate a failed system

“Subdivide” means to divide land by sale or other listed means, including the filing of a plat, plan or deed.

“Wastewater system” does not include systems used exclusively for disposal of manure

§ 1973(a) Permits required before: (1) subdividing; (2) creating or modifying a campground thereby affecting water supply or wastewater system; (3) constructing, replacing or modifying a water supply or wastewater system; (4) using a failed water supply or wastewater system; (5) constructing a new building; (6) modifying an existing building to increase design flow or change other water supply or wastewater system requirements; (7) making a new or modified connection to water supply or wastewater system; (8) changing use of building so as increase design flows or change water supply or wastewater system requirements

(c) **To replace** a permitted or exempt supply or system, the secretary shall grant a **variance** from technical standards, provided the variance is the minimum necessary considering the cost and the potential impacts on human health and the environment. No variance if the result would still be failed, or if the replacement allows increases in design flows.

(d) No permit unless a **licensed designer certifies** the design information is correct and that in the exercise of the designer's reasonable professional judgment, the **design meets the rules**

(e) To be a valid permit an **installer or licensed designer must certify** installation information is correct and that **installation** was according to the design and all conditions, was inspected and tested, and passed those tests.

(f) Secretary shall defer to licensed designer, but may review and enforce agency rules.

(g) In a dispute between the secretary and a professional engineer concerning engineer judgment, on request of the engineer, the secretary shall have the matter reviewed by a professional engineer.

(h) Permits, and design and installation certifications shall be filed in the town records, indexed and recorded in the land records.

§ 1974 Single Family residences on their own lots are subject to a number of exemptions:

(b)(1) if the lot **needed a permit but didn't have one**, or had one and didn't comply, **it is exempt if the lot existed on January 1, 1999 and the building and its water and wastewater were substantially completed at that time.** This exemption ends if something happens after that date, that is listed under section 1973 that requires a permit.

(2) If a permit has been issued before January 1, 1999, permit conditions remain in effect.

(c) If an **exempt lot is created by the effective date of this act, a substantially completed single family residence and its water and wastewater are exempt**, until the lot is subdivided to create a lot that is not exempt or **until an action for which a permit is required occurs after July 1, 2007.**

(d) A **permit is not required for the addition of a bedroom** to a single family residence on its own lot when the addition of bedrooms is through the modification of existing space and the exterior of the residence is not expanded horizontally.

(e) **No permit is required for external horizontal expansion on single family homes on their own lots that were exempt** on the effective date of this act, provided: (1) a **complying replacement area** has been identified by a licensed designer, with the design filed in the land records, and (2) **no other action for which a permit is required occurs after July 1, 2007.**

Section by section explanation of House-proposal for S.27

(f) Residences with permits shall comply with the permit, until they get a permit amendment.

(g) **Primitive camps** with no interior plumbing of more than a sink with water are **exempt**, if used no more than three consecutive weeks per year, and no more than 60 days per year. This exemption shall not apply to seasonal camps.

§ 1975. Designer licenses are required for designers of various classes of water supplies and wastewater systems, except that licensed engineers shall be deemed to have a valid license if the engineer is practicing within the scope of his or her specialty and the engineer has taken a specified soils course or retains someone who has taken the course. The secretary regulates designers that are not licensed engineers (site technicians), as most licensed occupations are regulated, but may enforce the chapter in certain instances. In the case of deficiencies in design or installation by a licensed engineer, the secretary shall refer the matter to the board of professional engineering.

§ 1976(a) requires delegation of the implementation of the chapter and the rules, and its enforcement to a requesting municipality, if the municipality establishes the capacity to administer the chapter.

(b) Municipal **ordinances** and zoning **bylaws** regulating water supplies and wastewater systems shall be superseded on July 1, 2007, to the extent they are inconsistent with the chapter and the rules, although permits issued under these ordinances or bylaws shall remain in effect until superseded by another permit. A municipality may assess fees sufficient to support municipal services under this section.

§ 1977 on appeal allows appeals to the water resources board, within 30 days of the act or decision, and board decisions may be appealed to the supreme court within 30 days.

§ 1978 on rules requires rules be adopted to include provisions for alternative or innovative technologies and to reduce site conditions, appropriately. The secretary may establish exemptions, as necessary, and **shall adopt rules by no later than July 30, 2002**. Wastewater systems on lots created after the effective date of the act shall not be authorized by rules to be constructed on ground with a maximum slope in excess of 20 percent. The secretary **shall review and update the rules and the technical standards**, with the advice of a technical advisory committee which is established in the act, and which shall provide annual reports to the legislative committees on natural resources and energy, on the implementation of the chapter and the use of new systems.

§ 1979 allows certain holding tanks and describes when they may be used, and the conditions under which they are authorized to operate.

§ 1980 establishes an on-site wastewater treatment and disposal project at the Vermont technical college in Randolph.

Sec. 2. amends 3 V.S.A. § 2822(j)(3) and (4) to **repeal fees** under statutory sections that are being repealed, and to add **the same fees** to the new consolidated program

Sec. 3, relating to the regulation of well drillers, repeals the existing list of offenses that may result in license suspension and revocation, and replaces it with a cross reference to the **general list of offenses** that applies to professions that are regulated under the office of the secretary of state.

Secs. 4 and 5 repeal references to the regulation of mobile home parks, which will now be regulated under the consolidated chapter.

Sec. 6 amends the uniform environmental law enforcement chapter to remove references to repealed chapters, and to insert a reference to the new consolidated chapter.

Sec. 7 makes it clear that fines collected by a delegated municipality will be retained by the municipality and will not be deposited into the general fund.

Sec. 8 requires a town clerk to record in the land records water supply and wastewater system permits, as well as the related design certifications and installation certifications.

Sec. 9 makes it clear that the state shall be listed as grantee, in the records specified in the previous section.

Secs. 10 and 11, relating to persons exempt from professional engineer licensing, repeal references to site technicians, and adds an exemption for the new class of licensed designers (site technicians) who design supplies up to 1,350 gallons per day. Note: the expansion of site tech jurisdiction does not occur until ANR proposes rules, developed in conjunction with the technical advisory committee, and the rules have been adopted.

Sec. 12, relating to the property transfer return, repeal references to law being repealed, and replace it with updated references

Sec. 13, the effective date, will provide the act is effective on passage, and makes the site technician repeal take place 30 months after the effective date of the rules adopted with respect to designer licenses.

Sec. 14 contains a number of repealed sections of existing law

Sec. 15. on Transition and Implementation,

(a) **give site technicians provisional designer licenses** until 30 months after the effective date of rules adopted governing designer licenses;

(b) **leave existing rules** in place, under chapters being repealed, until the effective date of rules first adopted under the consolidated chapter;

(c) **leaves existing permits** in effect, notwithstanding the repeal of the various authorizing chapter, but provides that those permits may be amended by the secretary under the new consolidated chapter.

(d) **allows rulemaking to commence** before the effective date of the act, extends the eight month deadline for rulemaking for wastewater rules currently before the administrative rules committee, and allows those rules to be revised

significantly to reflect the provisions of this act, without starting the rulemaking process all over again.

(e) Regarding **undeveloped** lots

(1) **a lot that was created** by the effective date of the act, and exempt at that time, **remains exempt if it is “improved”** (meaning it contains a building with wastewater and water, all of which may be used without further construction) **by November 1, 2002;**

(2) **a lot that was created** by the effective date of the act, and exempt at that time, **remains exempt even if it is not “improved” by November 1, 2002,** provided:

(A) the system assures that **wastewater remains at least six inches below the surface** and doesn't discharge into the surface waters of the state; and

(B) the system **meets the technical standards** of the rules, but may be build on slopes of up to 30 degrees; and

(C) a licensed **designer certifies** the system;

(D) an **installation certification** is provided and copies are filed in the land records and with the secretary

(3) The exemptions in (1) and (2) **terminate**

(A) on **July 1, 2007** if the lot is still not an improved lot;

(B) for **lots improved after November 1, 2002 but before June 30, 2007 when any action for which a permit is required occurs after June 30, 2007;**

(C) whenever the lot contains a **structure other than only one single** family residence

(D) whenever the lot is **further subdivided** into lots that are not exempt under the rules that exist at the time.

(f) (1) **Until July 1, 2007, revised minimum site conditions** allowed in the rules shall **not be used** for systems serving **lots created after the effective date of the act, unless** a municipality has a **confirmed planning process and zoning bylaws,** or unless the **lots are of ten or more acres and are created** after the effective date of the act and **before October 31, 2002;**

(2) After July 1, 2007, any municipality may use the revised minimum site conditions.

(g) regarding innovative or alternative wastewater systems, there is a list of **approved products and components.**

(h) **agency staff shall be assigned on a priority basis** to review and assist in determining existing site conditions, when it is proposed to use **“enhanced prescriptive or performance based minimum site conditions,** and with respect to systems located **in municipalities that do not have both a confirmed planning process and zoning bylaws.**

(i) regarding **groundwater**, the secretary shall **implement** the groundwater chapter **by July 1, 2007, including the completion of aquifer mapping**; By January 15, **2003**, the secretary shall **report** to legislative committees on (A) the **status of aquifer mapping**; (B) **the status of statewide groundwater classification**; (C) the **status of mapping of certain contaminants**; (D) potential **obstacles** in completing the work on time, including the resources necessary; (E) potential **funding** sources; (F) a reasonable **timetable** for implementing the work.

(j) Monitoring. (1) Systems using **performance based approach** for minimum site conditions shall be **inspected annually** by a licensed designer, with a **written report** submitted to the secretary describing the functional status of the system. This inspection and reporting requirement **terminates on July 1, 2007**. (2) The **secretary is to compile data** on the **number and exact GIS location of systems permitted** under the rules that would not have been permitted under the previous rules. (3) The secretary, in consultation with the agency of commerce and community development and the technical advisory committee shall submit **two reports** describing the **performance** of the systems allowed under subdivision (1) of this subsection and their **effects on land use development patterns**. The initial report shall be submitted by January 15, 2005; the final one by January 15, 2007.

(k) Planning. (1) The commerce and natural resources agencies are to provide **technical assistance and funding**, as available, for revising municipal **plans and bylaws**, to address the needs arising from increasing the land available for development. (2) The commerce and natural resources agencies, in consultation with the Vt. League of cities and towns, and the Vermont association of planning and development agencies shall develop a **model groundwater protection ordinance** and make it available by July 1, 2003; and by July 1, 2007 shall **develop a technical assistance program**, including available funding, **for implementation of groundwater ordinances** by interested municipalities.

(l) **Holding tanks** may be used by the **Shrewsbury Library** and the **Oakhill Children's Center**, notwithstanding noncompliance with specified provisions of statutes relating to holding tanks.

(m) Municipal ordinances may amend an ordinance to regulate water and wastewater only if: (1) it contains technical standards no more stringent than those existing on January 1, 2002, or (2) it contains technical standards consistent with those adopted under this act.

Sec. 16. would retain in the new law, provisions of existing law that make it clear that certain failures to obtain or record permits shall not adversely affect the **marketability** of title.