

**AGENCY OF NATURAL RESOURCES
103 SOUTH MAIN STREET
WATERBURY VT 05671-0405**

TO: ALL INTERESTED PARTIES
DATE: NOVEMBER 14, 2007
**SUBJECT: AMENDMENTS TO THE WASTEWATER SYSTEM AND
POTABLE WATER SUPPLY RULE AND A SUMMARY OF
SIGNIFICANT CHANGES MADE TO THE STATUTE THAT
AUTHORIZES THE RULE**

Beginning on July 1, 2007, wastewater systems and potable water supplies that were previously exempt from state regulation may be required to obtain a permit for activities such as: construction of new buildings (including single family residences that need sewage disposal and/or water); construction or modification of a wastewater system and/or potable water supply; new connections to an existing wastewater system and/or potable water supply; subdivision of land; and repair or replacement of a failed wastewater system and/or potable water supply. Vermont is the last state in the nation to implement this kind of permit requirement for all properties statewide. Many people refer to this as the state having “universal jurisdiction” over sewage and water.

The Agency of Natural Resources has been working to make the transition to universal jurisdiction as smooth as possible. Below is a summary of the more significant changes that were made to the Wastewater System and Potable Water Supply Rules (and to the statute that authorizes the Rule). The changes are intended to make this permit program more flexible and reasonable while maintaining protection of human health and the environment.

1. Overall Reorganization of the Rules' Current Structure – The major rule reorganization was done to improve their readability and to make them more easily understood.
2. Changing the Definition of a Failed Water Supply and Failed Wastewater System – The previous definitions were somewhat vague. The new definitions have been revised to make it easier to determine if a system is failed or not, which is important because anyone with a failed system needs a permit and also has a defect in their property title.
3. Clean Slate - The legislation includes a “clean slate” exemption that basically grandfathers all buildings, campgrounds, lots, wastewater systems and potable water supplies that were in existence before January 1, 2007. A permit is required when any action is taken on or after January 1, 2007 that needs a permit. If the wastewater system or potable water supply fails, a variance from the rules is available if no fully complying

replacement can be found. This provides relief for a number of properties that currently are unmarketable due to non-compliance with the rules.

4. Authorization of New Types of Systems – The rules include sections that allow for the use of constructed wetlands and subsurface drip distribution systems for the disposal of wastewater in addition to the 20 different types of systems already allowed. These general use approvals enable these innovative/alternative components to be used when designing wastewater systems.
5. Replacement Wells for Single Family Residences – When a residence loses its water supply, time is of the essence in finding and replacing the water supply. The rules have a new exemption that allows failed single family residence wells to be replaced without obtaining a permit provided the siting of the new water source is done in accordance with the requirements of the Vermont Water Supply Rules. The revision does require a form developed by the Secretary to be filed in the land records in these situations so that future title searchers will know that the well has been replaced.
6. Reduction of the Required Minimum Design Flow for Single Family Residence – The previous rules required that the wastewater system design for a single family residence be able to accommodate the wastewater flows from a minimum of 3 bedrooms (i.e. six occupants). The new rules change this requirement to a minimum design requirement of 2 bedrooms. This will allow smaller wastewater systems to be built.
7. Revision to Replacement Area Requirements – The previous rules required those people who are installing septic systems to design and build their primary septic system and to also identify an area where an identical replacement septic system could be built in the event the primary system failed. The new rules allow the replacement area requirement to be waived if the primary system is designed and constructed to handle 150% of the design flow and uses pressure distribution. This change will enable some lots that were not developable (because they lacked the space and soils needed to site the required identical replacement system) to be developed.
8. Removal of Mound System Replacement Area Requirement – The previous rules treated mound systems the same as conventional systems regarding replacement areas; that is, an additional area of land and soils sufficient to support an identical replacement mound system was required. Under the new rules, this requirement goes away when a mound system sized for 100% of the design flow has been or is proposed for construction. Designers and engineers have advised that, in nearly every case, failed mounds can be replaced or restored to full function on the original footprint.

9. Composting Toilets – The previous rules did not explicitly mention composting toilets even though they have been allowed for years. The new rules specifically allow the use of composting toilets. In addition, the new rules allow a size reduction of the septic system to a size that is necessary to just handle the waste flows from things other than the toilet (for example: dishwashing, laundry, etc). Finally, the revision eliminates the requirement that a project have enough area to build a septic system for a flush toilet even though a composting toilet is being proposed.
10. Seasonal Conversions – The previous rules required a permit in order to change the use of a single family residence from seasonal to year-round. That permit required full compliance with the technical standards. The new rules still require a permit and will require an upgrade if the existing systems do not comply with the technical requirements, but a variance may be able to be granted if full compliance with the Rules is not possible.
11. Subdividing a Developed Lot – Although the previous rules already reduced the permitting requirements for the subdivision of land that has been developed, there are some situations where people wish to sell off some land in order to get needed money. The previous rules stated that existing systems could be kept as is, unless they were failed, but a replacement area was required to be identified. This created a problem for those people with no money until land is sold. The rules have been changed to allow for no search for a replacement area beyond 500 feet or more from the footprint of a single family residence, duplex, or building with a design flow of 500 gallons per day or less. This section now also clearly allows a best fix replacement area with 500 feet of the foundation of the building. This will provide relief to some individuals who are in this situation.
12. Elimination of the Current Bedroom Exemptions -Sections, 1-403(a) (6) and (7) in the previous rules have been eliminated, based on the statutory change in H.296. Therefore, the addition of one or more bedrooms (which affects the design flow for the water and wastewater systems) does require a permit.
13. New Minimum Site Condition - Language has been added to clarify that water and wastewater systems may not be constructed within a floodway and that construction requirements apply when constructing within the flood plain. There is a reference to specific FEMA documents for guidance on construction within the flood way.
14. Exterior Alterations to a Lot – Under the previous rules, some people were required to hire a designer if they were building a deck, adding a garden shed, etc. to determine if they were inadvertently eliminating the location for a replacement area. The rules have been revised so that these kind of exterior alterations do not need a permit unless something else is being

done that needs a permit (for example: adding a bedroom or re-building a failed leach field). If someone does exterior alterations that affect future septic or water capacity, they may have to undo the alteration if the wastewater system or potable water supply fails.

15. Residences that have Outhouses or Outdoor Water Pumps – A new exemption has been added to the rules to address the fact that some houses in the state have been used for years without either a piped connection to a water supply or a piped connection to a wastewater system. For any residence that qualifies for the “clean slate” exemption (see below), this exemption allows this situation to continue until they construct a piped supply or system or something else is done that requires a permit.

<http://www.anr.state.vt.us/dec/ww/EngServ.htm>