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July 17, 2002

Senator Ann Cummings, Chair
Legislative Committee on Administrative Rules
State House
Montpelier, VT 05602

Re: Final Proposed Rule – Wastewater System and Potable Water Supply Rules

Dear Senator Cummings:

As described in my letter of July 8, 2002, after filing the revised version of the Wastewater System and Potable Water Supply Rules, I asked certain attorneys and the ad hoc Technical Advisory Committee to review the revised rules. As a result of that review, some revisions have been made. I have used the conventional underlined/strike thru format to assist LCAR in its review.

A number of these changes are minor, for example punctuation revisions, going from capital to small letters, and reordering the existing words for clarity. The major revisions are as follows:

- page 7 - Definition of change in use – this has been restructured to make it clear that a change in use only requires a permit when there is an increase in design flow or a change in other operational requirements.
- page 10 - Definition of existing seasonal dwelling – language has been added to make it clear that primitive camps (that are exempt from permits) are not seasonal camps.
- page 19 - Application requirements – language has been added from the existing permit application form requiring a designer to determine if a proposed potable water supply is located within one mile of a hazardous site. This information is necessary to prevent new wells from using contaminated groundwater.
- page 21 - Application requirements – language has been revised to make it clear that building specifications for houses, etc. do not need to be included in the

permit application. Only building enclosures for potable water supplies and wastewater systems (such as water storage tanks) need to be identified.

- page 29 - Variances – an incorrect cross reference was corrected.
- page 40 - Sections 1-403 and 1-404 – one generic change was made to these sections. Whenever the phrase “after (a certain date)” was used, the phrase was changed to “on or after (a certain date)” and the date was changed by one day. This does not affect the substance of the requirement, but was requested for clarity so the dates match the dates in the statute.
- page 44 - Permit exemption 1-403(a)(5)(A)(ii) – this language was revised at the request of the ad hoc lawyers groups. The revised language more accurately describes what gets filed in the land records for a lot that is retained by the owner after an act of subdivision.
- page 44 - Permit exemption 1-403(a)(6) – this language was revised to track the language of the next exemption so that it is clear that both bedroom exemptions apply only to single family residences that were exempt.
- page 45 - Primitive camp exemption – the final sentence was struck to track with the revision to the definition of existing seasonal dwelling.
- page 46 - Adjustment of lot lines exemption – the language was revised to make it clear which potable water supplies and wastewater systems needed to be identified and to make it clear that a person only needs to review adjacent lots affected by the lot line adjustment rather than all adjacent lots.
- page 52 - New subsection (d) – this language was added to make it clear that when there is an exemption for the use of a single family residence (such as the use of the residence as a family day care home), while the residence must comply with its permit or permit exemption, non-compliance with the permit or permit exemption will not terminate the exemption for the family day care home (or other exempt use).
- page 52 - 1-404(a)(2)(B) – same change in language as the change at the top of the page.
- page 53 - Adjustment of lot lines exemption – this language was revised in the same manner and for the same reasons as the other lot line adjustment exemption language.

- page 64 - 1-502(a) – this language was revised to more accurately describe the interaction of minimum site conditions and specific wastewater system design requirements.
- page 64 - 1-502(b) – this language was revised to clarify what is meant by permeable soil.
- page 83 - 1-508(d) – this language was revised to eliminate the requirement for leakage testing of all septic tanks that was suggested by the Technical Advisory Committee and that received adverse comments at a prior LCAR hearing.
- page 89 - 1-512(m) – this language was added to allow the use of prefabricated leaching chambers.
- page 152 - Appendix 5-A – this language was revised to update/correct the addresses and telephone numbers of the listed organizations and to add NEIWPCCC to the list of organizations.

Finally, I have also attached the list of towns with a confirmed planning process and zoning, ie: the towns where the revised minimum site conditions can be used for state permits for lots created on or after June 14, 2002. The list was prepared by the Agency of Commerce and Community Development based on information from Regional Planning Commissions and Towns.

Thank you very much for all of your time, effort and patience in reviewing these rules.

Sincerely,

Christopher Recchia
Commissioner