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H.578

Introduced by Representative Eastman of Orwell

Referred to Committee on

Date:

Subject: Conservation and development; potable water supply and wastewater
permit; permit issuance

Statement of purpose of bill as introduced: This bill proposes to require the
Secretary of Natural Resources to issue a potable water supply or wastewater
system permit within 30 days of receipt of the permit application.

An act relating to potable water supply and wastewater system permits

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. § 1973 is amended to read:

§ 1973. PERMITS

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

(1) subdividing land;

(2) creating or modifying a campground in a manner that affects a
potable water supply or wastewater system or the requirements for providing
potable water and wastewater disposal;

1 (3) constructing, replacing, or modifying a potable water supply or
2 wastewater system;

3 (4) using or operating a failed supply or failed system;

4 (5) constructing a new building or structure;

5 (6) modifying an existing building or structure in a manner that
6 increases the design flow or modifies other operational requirements of a
7 potable water supply or wastewater system;

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

10 (8) changing the use of a building or structure in a manner that increases
11 the design flows or modifies other operational requirements of a potable water
12 supply or wastewater system.

13 (b) Application for a permit shall be made on a form prescribed by the
14 Secretary. The application shall be supported by such documents and
15 information that the Secretary, by rule, deems necessary for proper application
16 review and the issuance of a permit.

17 (c) When a person replaces a potable water supply or wastewater system
18 that has been permitted, or was exempt from permitting requirements, the
19 Secretary shall grant a variance from the technical standards if the supply or
20 system cannot be replaced so that it is in full compliance with the rules adopted
21 under section 1978 of this title, provided that the variance requested is the

1 minimum necessary considering the cost of the replacement supply or system
2 in addition to the potential impacts on human health and the environment. No
3 variance shall be granted under this subsection if the supply or system would
4 continue to meet the definition of a failed supply or failed system, or if the
5 replacement supply or system allows for increases in design flows. Within
6 30 days of receipt of an application for a variance under this subsection, the
7 Secretary shall grant the variance or shall inform the applicant of how to
8 amend the variance application in order to qualify for the variance.

9 (d) No permit shall be issued by the Secretary unless the Secretary receives
10 a statement from a licensed designer certifying that, in the exercise of his or
11 her reasonable professional judgment, the design-related information submitted
12 with the permit application is true and correct and the design included in an
13 application for a permit complies with the rules. Within 30 days of receipt of
14 an application for a permit under this section that includes the certification
15 required by this subsection, the Secretary shall issue the permit or shall inform
16 the applicant of how to amend the permit application so that the permit may be
17 issued.

18 (e) No permit issued by the Secretary shall be valid for a substantially
19 completed potable water supply and wastewater system until the Secretary
20 receives a statement from an installer or a licensed designer certifying that, in
21 the exercise of his or her reasonable professional judgment, the

1 installation-related information submitted is true and correct and the potable
2 water supply and wastewater system:

3 (1) were installed in accordance with:

4 (A) the permitted design and all permit conditions; or

5 (B) record drawings and such record drawings are in compliance with
6 the applicable rules, were filed with the Secretary, and are in accordance with
7 all other permit conditions;

8 (2) were inspected;

9 (3) were properly tested; and

10 (4) have successfully met those performance tests.

11 (f)(1) 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

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

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

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

11 (g) If there is a dispute between the Secretary and a professional engineer
12 concerning the design prepared by a professional engineer or the judgment
13 exercised by a professional engineer, the professional engineer may request
14 that the disputed issues be reviewed by a licensed professional engineer
15 employed or retained by the Secretary. The Secretary shall grant all such
16 requests for review.

17 * * *

18 Sec. 2. EFFECTIVE DATE

19 This act shall take effect on passage.