

ON-SITE SEWAGE DRAFT RULE

READY FOR REVIEW!

The Vermont Department of Environmental Conservation (DEC) has just issued new draft rules for the **Wastewater System and Potable Water Supply** permitting program. After an almost two-year delay, these draft rules include requirements for municipalities to take delegation of the onsite program if they determine that it is in their interest to do so. The Department has also provided its schedule of hearings on the rules.

WHAT IS IN THE DRAFT RULES?

The first rules adopted after statutory revisions to the Wastewater System and Potable Water Supply program took effect on August 16, 2002. At the time, DEC was clear that it would add to those rules as issues arose and as it developed standards for delegation of the program to municipalities. The draft rules discussed below amend and add to the 2002 rules.

Professional engineers and designers may design a potable water supply or wastewater system requiring a permit or designer's certification if they have obtained a designer's license from the secretary of the Agency of Natural Resources (ANR). A professional engineer would be deemed to have a license if he or she is practicing within the scope of his or her engineering specialty and has taken a soils course, passes a soils identification course or hires designers who have taken the course or test. Designers who are not professional engineers would not be able to design systems subject to the "Indirect Discharge Rules," designs using innovative alternative systems or projects that have received pilot or experimental use approval; or designs using innovative/alternative systems or products that have received general use approval if the approval specifies the design must be prepared by a professional engineer. The rules specify additional situations in which professional engineers would be required. The rules would establish three classes of designers, reserving Class 1 for professional engineers, who would not be subject to continuing education or designer license renewal requirements. In an important revision, designers who were certified as site technicians prior to April 26, 1977 would remain licensed if they paid their fees and fulfilled continuing education requirements.

A new **exemption** would be added to the rules. A single-family residence on its own pre-existing or exempt lot would be exempt if the wastewater and potable water systems were constructed in accordance with a municipal permit issued prior to November 1, 2004 that required technical approval of those systems. If a lot containing two single family residences as of January 1, 1999 does not have the permit required under these rules, it would be eligible for subdivision as long as the subdivision only creates a boundary between the two residences putting them on their own lots.

Much was made of the state's onerous requirement for **grease interceptors** during the legislative session. This rule would exempt commercial facilities from obtaining a grease interceptor permit if the wastewater will be disposed of in a municipal wastewater treatment system. Although the section needs clarification as written, a note in the rule says that a municipality may have its own requirements for grease interceptors.

The rules would allow for **reduction of separation distance** required between the bottom of a wastewater disposal system and seasonal high water table if certain conditions are met, including that the owner of the system owns or controls all the property within a "two-year time of travel" management zone. The rules would also allow a system that stores effluent during periods when the groundwater level is near the surface and sends the wastewater into a leachfield when the groundwater is low, provided certain conditions are met.

The provisions regarding **delegation of the program** to a municipality would prohibit partial delegation of the program. In a municipality that has been delegated the administration of the Wastewater System and Potable Water Supply Program, no state permits for on-site systems, potable water supplies or connections to municipal wastewater treatment facilities would be required. The ANR secretary would retain authority to address non-compliance issues even in municipalities to which the program had been delegated.

A request for delegation would need to include a copy of a contract between the municipality and designer; a copy of the appointment of the sewage officer, if any; copy of the agreement, signed by the authorized municipal representative, to administer the program; and authority for the ANR secretary or designee to enter municipal property during normal business hours to review documents related to the

delegation of the program. The rules would also establish which records must be sent to ANR, annual reporting requirements, and performance expectations for the administering municipality. Finally, the rules would establish revocation of delegation process.

VLCT staff has heard from several municipalities that are eager to take delegation of the program. Local officials have the opportunity now to suggest changes in the way that delegation would work. Posting of the draft rules on DEC's Web site (<http://www.anr.state.vt.us/dec/ww/wwmd.cfm>) is imminent. Please take the time to look at the rules and to attend a hearing!

- Karen Horn, Director, VLCT Legislative and Membership Services

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