



89 Main Street, Suite 4
Montpelier, Vermont
05602-2948

Tel.: (802) 229-9111
Fax: (802) 229-2211

e-mail:
info@vlct.org

web:
www.vlct.org

VLCT LEGISLATIVE ACTION ALERT

Date: Tuesday, April 15, 2008
TO: Mayors, Managers, Public Works Directors
From: Karen Horn, Director
Public Policy & Advocacy
RE: Senate Natural Resources Committee to Act on
New Phosphorus/TMDL Draft Wednesday, April 16, 2008

Action Requested

Municipal officials concerned about the Senate Natural Resources redraft of H. 873 should contact Senate Natural Resource Committee members today. Urge them to support the House-passed version of H. 873. Call them at 1-800-322-5616. Fax them a letter at 1-802-828-2424. E-mail them at their legislative e-mail address found at www.leg.state.vt.us.

This morning Senator Lyons, chair of the Senate Natural Resources Committee, gave her committee a redraft of the TMDL/Phosphorus (and now composting operation) bill, H. 873, and legislative staff walked the committee through proposed amendments. The first opportunity anyone had to see the bill was yesterday afternoon at 4:30 when a draft was e-mailed to interested persons. Tomorrow morning (Wednesday, April 16) at 8:30 a.m. the committee is going to discuss the bill. As tomorrow is the last day that the committee is formally meeting this session, it will be passed then or soon thereafter.

As the committee heard from no local official who requested to testify other than myself, please consider attending the committee meeting tomorrow morning.

If you are not able to attend, it would be helpful to contact members of the Senate Natural Resources Committee: Senators Lyons of Chittenden, chair; Hartwell of Bennington; Snelling of Chittenden; McCormack of Windsor; and MacDonald of Orange.

VLCT supports H. 873 as it passed the House. The draft discussed today (Draft No. 1 – H. 873, dated 4/2/08) has several significant problems from the municipal perspective:

Sponsor of:

VLCT Health Trust, Inc.

VLCT Municipal Assistance
Center

VLCT Property and Casualty
Intermunicipal Fund, Inc.

VLCT Unemployment
Insurance Trust, Inc.

- ⇒ At section 1, the revised H. 873 requires adoption of the Anti-Degradation Policy in the Vermont Water Quality Standards by rule and applies it to “*all discharges of waste as required under state law*”. The anti-degradation policy consists of three elements according to the Agency of Natural Resources draft policy: determination and protection of existing uses, protection and maintenance of water quality in high quality waters, and protection of water quality for outstanding resource waters. An anti-degradation policy would apply to all applications for renewal or amendment of an existing National Pollutant Discharge Elimination System Program (NPDES) or direct discharge permit for industrial or sanitary discharges where the application proposes an increase in pollutant loading or increase in demand on the assimilative capacity of the receiving waters.
- ⇒ At section 2, the requirement that total annual phosphorus discharged by all wastewater treatment facilities in the aggregate does not exceed the total phosphorus load discharged to Lake Champlain by all facilities in 2006 is eliminated in this draft as it is in the House-passed bill. In its stead, this draft requires that by March 1, 2009, the ANR shall adopt by rule a comprehensive long-term strategy and implementation plan for the Lake Champlain total maximum daily load (TMDL) plan and remediation of Lake Champlain to include “*full utilization of all available regulatory tools to achieve in the shortest possible time compliance with the Vermont water quality standards for all segments of Lake Champlain*”, establish benchmarks for phosphorus reduction to be achieved by January 15, 2011 and revise those benchmarks every 2 years. The reopening of the TMDL would be repealed upon implementation of the 17 TMDL plans for stormwater impaired waters of the state. No mention is made anywhere of the cost involved in achieving compliance in the shortest possible time or who shoulders that burden.
- ⇒ At section 5, in wastewater treatment facility permits, ANR must require reporting of total nitrogen discharged from a facility and total phosphorus flowing into a facility.
- ⇒ At section 6, stormwater permits issued in either impaired or unimpaired waters must require best management practices addressing phosphorus removal and a reduction standard of 50% phosphorus removal for each permitted discharge.
- ⇒ At section 11, ANR must secure an independent audit of the 30 largest wastewater treatment plants in the Lake Champlain basin to evaluate costs of removing phosphorus to levels ranging from 1.0 mg/l to 0.05 mg/l (milligrams per liter), and identify and recommend methods at each plant to optimize phosphorus removal without significant capital cost.
- ⇒ At section 12, by January 15, 2009, ANR must report to the legislature on elimination of combined sewer overflows (including their cost) at wastewater treatment plants in the state and reduction of phosphorus discharges at the 20 wastewater treatment plants within the Lake Champlain basin that do not meet the current phosphorus discharge standard. The report would include an estimate of the cost of requiring the 20 smaller wastewater treatment plants that do not meet the existing phosphorus discharge standard of 0.8 mg/l to instead meet a discharge standard of 0.2 mg/l.