

Environmental Ticketing

Supplemental Information

Debuting in early 2011

A Quick Explanation

First of all, this Rule and spreadsheet are *preliminary drafts* and reflect what is on the Enforcement Division's website as of November 22, 2010. We decided to include it in the newsletter in case you missed it.

Based on our discussions with the Enforcement Division, this is how ticketing will work. When we write a ticket, it has to be for the maximum amount as indicated on the enclosed spreadsheet. You can choose not to contest the ticket and pay the waiver fine. If you decide to go to the court, the judge could fine you anywhere between the minimum and the maximum penalty if you're found guilty. If the judge finds you innocent, no fine will be levied. Please contact Gary Kessler with any comments. You can also visit the Enforcement Division's website for more information or to complete an online survey with your thoughts.

Gary Kessler can be reached at 802 241 3820 or gary.kessler@state.vt.us

The website where the draft Rule and survey is located is <http://www.anr.state.vt.us/dec/dec.htm>

Preliminary Draft Ticketing Rule

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
COMPLIANCE & ENFORCEMENT DIVISION
CHAPTER 25 - ENVIRONMENTAL TICKETING**

(November 8, 2010 Draft)

§ 25-101. Authority

This rule is adopted by the Secretary of the Agency of Natural Resources pursuant to the authority granted in 10 V.S.A. § 8019 that authorize the Secretary to adopt rules for the issuance of Vermont Civil Violation Complaints.

§ 25-102. Definitions

As used in this rule:

- (1) "Board" means the Natural Resources Board.
- (2) "Continuing violation" means a violation that lasts for more than one calendar day.
- (3) "Person" means any individual: partnership; company; corporation; association; joint venture; trust; municipality; the state of Vermont or any agency, department, or subdivision of the state, any federal agency, or any other legal or commercial entity.
- (4) "Repeat violation" means a violation when the same violation had previously occurred during the preceding three years. To be considered a repeat violation, the previous violation must have been addressed either in a ticket or in an administrative or civil action under 10 V.S.A. Chapters 201 or 211. Repeat violations are not continuing violations.
- (5) "Respondent" means a person who has been issued a ticket.
- (6) "Secretary" means the Secretary of the Agency of Natural Resources or a duly authorized representative.
- (7) "Ticket" means a Vermont Civil Violation Complaint.
- (8) "Violation" means any noncompliance with any statute, rule, regulation, or permit listed in Table 1 of this rule.
- (9) "Waiver" or "Waiver penalty" means the penalty to be paid by the respondent if the ticket is not con-

(continued on last page)

CITATION	code	type	VIOLATION
EPR Chapter 24 - Groundwater Withdrawal Reporting and Permitting Rule , Subchapter 22-301	GW	Ground Water	Permit (Ground water withdrawal), Failure to have a permit for withdrawing Groundwater greater than 57,600 GPD
EPR Chapter 24 - Groundwater Withdrawal Reporting and Permitting Rule , Subchapter 4 (Under development)	GW	Ground Water	Reporting (Ground water withdrawal), Failure to report groundwater withdrawal greater than 20,000 GPD
EPR Chapter 21 WSR - Subchapter 21-6	03	MON	Monitoring Major, Failure to conduct all routine water quality monitoring
EPR Chapter 21 WSR - Subchapter 21-6	03	MON	Monitoring Minor, Conducts some but not all water quality monitoring
EPR Chapter 21 WSR - Subchapter 21-6	04	MON	Monitoring Major, Failure to collect all check, repeat and/or confirmation sample(s)
EPR Chapter 21 WSR - Subchapter 21-6	04	MON	Monitoring Minor, Conducts some but not all check, repeat and/or confirmation sample(s)
EPR Chapter 21 WSR - Subchapter 21-6	23	MON	Monitoring Major (TCR), Failure to collect all required routine samples at sites approved in the sampling plan monitoring
EPR Chapter 21 WSR - Subchapter 21-6	24	MON	Monitoring Minor (TCR), Collects some but not all of routine samples at sites approved in the sampling plan
EPR Chapter 21 WSR - Subchapter 21-6	25	MON	Monitoring Repeat Major (TCR), Failure to collect all repeat samples
EPR Chapter 21 WSR - Subchapter 21-6	26	MON	Monitoring Repeat Minor (TCR), Collects some but not all of the required repeat samples
EPR Chapter 21 WSR - Subchapter 21-6	27	MON	Monitoring Routine (Stage 1 D/DBPR) Failure to comply with monitoring and reporting requirements, and/or monitor according to sampling plan
EPR Chapter 21 WSR - Subchapter 21-6.4	27	MON	Monitoring (Stage 1 D/DBPR), Failure to have sampling plan
EPR Chapter 21 WSR - Subchapter 21-7.9	29	MON	Monitoring (IESWTR/LT1 SWTR) Failure to conduct required Comprehensive Performance Evaluation and/or failure to produce filter assessment
EPR Chapter 21 WSR - Subchapter 21-6.4	30	MON	Monitoring, (Stage 2 D/DBPR), Failure to conduct standard monitoring and/or failure to conduct ongoing annual or quarterly monitoring
EPR Chapter 21 WSR - Subchapter 21-6.6.4	31	MON	Monitoring/Reporting, (GWR), Failure to monitor or report residual disinfectant concentration required per the GWR
EPR Chapter 21 WSR - Subchapter 21-6.2	31	MON	Monitoring/Reporting (SWTR-unfiltered systems)- unfiltered systems fail to monitor and report parameters/information required per the SWTR.
EPR Chapter 21 WSR - Subchapter 21-6.3	32	MON	Monitoring Source, (LT2), Failure to collect any source water samples and report results
EPR Chapter 21 WSR - Subchapter 21-6.6.4	34	MON	Monitoring, Source (GWR), Failure to conduct all required triggered source water monitoring and other monitoring per the Ground Water Rule

MINIMUM	MAXIMUM	WAIVER - 1st Violation	WAIVER - 2nd Violation	WAIVER - 3rd Violation
\$300	\$1,500	\$450	\$900	\$1,350
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900

CITATION	code	type	VIOLATION
EPR Chapter 21 WSR - Subchapter 21-6.2	36	MON	Monitoring (SWTR), Filtered systems fail to collect and/or report turbidity, entry point disinfectant residual and distribution system disinfectant concentrations
EPR Chapter 21 WSR - Subchapter 21-6.3	38	MON	Monitoring Major (IESWTR/LT1), Failure to collect and/or report all required combined filter effluent and all individual filter turbidity within 10 days after the end of the month and/or failure to report that the system exceeded 1 NTU or maximum Turbidity level set by the State
EPR Chapter 21 WSR - Subchapter 21-6.3	38	MON	Monitoring Minor (IESWTR/LT1), Collects some and/or reports some but not all of the required combined filter effluent and all individual filter turbidity within 10 days after the end of the month
EPR Chapter 21 WSR - Subchapter 21-6.5	51	MON	Monitoring (LCR), Failure to conduct initial tap sampling
EPR Chapter 21 WSR - Subchapter 21-6.5	52	MON	Monitoring (LCR), Failure to collect adequate number of samples, and/or provide all monitoring information
EPR Chapter 21 WSR - Subchapter 21-6.5	52	MON	Monitoring (LCR), Failure to provide notification to State of change in treatment or addition of new source
EPR Chapter 21 WSR - Subchapter 21-6.5	53	MON	Monitoring (LCR), Failure to collect and/or report all water quality parameters, and/or failure to meet state approved sampling plan
EPR Chapter 21 WSR - Subchapter 21-6.5	56	MON	Monitoring (LCR), Failure to collect required number of source samples and/or report results
EPR Chapter 21 WSR - Subchapter 21-6.2	WG	MON	Monitoring (Ground Water Under the Direct Influence), Failure to make GWUDI determination and/or complete required monitoring
EPR Chapter 21 WSR - Subchapter 21-12	WO	Operator	Operational, Failure to have a certified Class 2,3,4, or D Operator
EPR Chapter 21 WSR - Subchapter 21-12	WO	Operator	Operational, Failure to have a certified Class 1B Operator
EPR Chapter 21 WSR - Subchapter 21-6.6.4	5	Other	Notification (GWR), Failure to notify the State: of any time system fails to meet any State-specific requirements; and/or notify the state within 30 days of completing a corrective action; and/or failure to provide documentation that system met State criteria for exception to the triggered source water monitoring requirements
EPR Chapter 21 WSR - Subchapter 21-10.1.2	WP	Permit	Public Notification (Temporary Operating Permit), Failure to provide notice of temporary operating permit significant deficiencies to all customers
EPR Chapter 21 WSR - Subchapter 21-5.4	WT	Permit	Permit, (Temporary Operating Permit) Failure to comply with Temporary Operating Permit
EPR Chapter 21 WSR - Subchapter 21-4	WU	Permit	Permit (Source/Construction Permit), Failure to obtain required permit before connecting and operating a source for Transient Non-Community water system

MINIMUM	MAXIMUM	WAIVER - 1st Violation	WAIVER - 2nd Violation	WAIVER - 3rd Violation
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$300	\$1,500	\$450	\$900	\$1,350
\$150	\$1,000	\$300	\$600	\$900
\$75	\$500	\$150	\$300	\$450
\$75	\$500	\$150	\$300	\$450
\$75	\$500	\$150	\$300	\$450
\$150	\$1,000	\$300	\$600	\$900
\$300	\$1,500	\$450	\$900	\$1,350

CITATION	code	type	VIOLATION
EPR Chapter 21 WSR - Subchapter 21-4	WU	Permit	Permit (Source or Source/Construction Permit), Failure to obtain required permit before connecting and operating a source for Community Water System, Non-Transient Non-Community Water System, and/or Domestic Bottled Water (in-state bottled water facility)
EPR Chapter 21 WSR - Subchapter 21-4	WS	Permit	Permit (Construction Permit), Failure to obtain required construction permit for Community Water System, Non-Transient Non-Community Water System, and/or Domestic Bottled Water (in-state bottled water facility)
EPR Chapter 21 WSR - Subchapter 21-4	WS	Permit	Permit (Construction Permit), Failure to obtain required construction permit for Transient Non-Community water system
EPR Chapter 21 WSR - Subchapter 21-4	WS	Permit	Permit (Construction), Failure to submit as-built drawings
EPR Chapter 21 WSR - Subchapter 21-5	WS	Permit	Permit (Operating) Failure to obtain Operating Permit for Community Water System, Non-Transient Non-Community Water System, and/or Domestic Bottled Water (in-state bottled water facility)
EPR Chapter 21 WSR - Subchapter 21-5	WS	Permit	Permit (Operating) Failure to obtain Operating Permit for Transient Non-Community Water System
EPR Chapter 21 WSR - Subchapter 21-10	75	PN	Public Notification (Tier 1 for all rules), Failure to provide notice to all customers within 24 hours for acute violations, and/or boil or do not drink notices
EPR Chapter 21 WSR - Subchapter 21-10	75	PN	Public Notification (Tier 2 all rules), Failure to provide notice to all customers within 30 days for non-acute violations
EPR Chapter 21 WSR - Subchapter 21-10	75	PN	Public Notification (Tier 3 all rules), Failure to provide notice to all customers within 1 year for monitoring violations
EPR Chapter 21 WSR - Subchapter 21-10	76	PN	Public Notification (for all rules), Failure to provide timely, complete and accurate public notice to all customers and/or failure to deliver a copy of the public notice with certification to the State
EPR Chapter 21 WSR - Subchapter 21-6.4	30	RPT	Reporting (Stage 2 D/DBPR), Failure to have a monitoring plan and/or failure to submit a complete initial distribution system evaluation
EPR Chapter 21 WSR - Subchapter 21-6.3	32	RPT	Reporting (LT2), Failure to submit a complete source water monitoring plan
EPR Chapter 21 WSR - Subchapter 21-6.3	33	RPT	Reporting (LT2), Failure to submit initial bin classification for approval
EPR Chapter 21 WSR - Subchapter 21-6.4	35	RPT	Reporting (Stage 2 D/DBPR), Failure to submit IDSE report
EPR Chapter 21 WSR - Subchapter 21-6.4	35	RPT	Reporting (Stage 2 D/DBPR), Failure to conduct an operational evaluation and submit operational evaluation report
EPR Chapter 21 WSR - Subchapter 21-6.5	57	RPT	Reporting (LCR), Failure to submit optimal corrosion control treatment and/or source water treatment recommendation

CITATION	code	type	VIOLATION
EPR Chapter 21 WSR - Subchapter 21-6.5	65	RPT	Reporting/Public Notification (LCR) Failure to issue required lead public education to all customers
EPR Chapter 21 WSR - Subchapter 21-6.5	66	RPT	Reporting (LCR), Failure to provide notice of lead results to individual served by taps used for LCR monitoring
EPR Chapter 21 WSR - Subchapter 21-10.5	71	RPT	Reporting CCR, Failure to produce and deliver any annual Consumer Confidence Report
EPR Chapter 21 WSR - Subchapter 21-10.5	72	RPT	Reporting CCR, Failure to deliver a complete and accurate Consumer Confidence Report to all customers and/or failure to deliver a copy of the CCR with certification to the State.
EPR Chapter 21 WSR - Subchapter 21-6	WS	RPT	Reporting (TCR and LCR), Failure to have a monitoring plan for TCR and LCR
EPR Chapter 21 WSR - Subchapter 21-7.1	WS	RPT	Reporting, Failure to submit Operations and Maintenance Manual
EPR Chapter 21 WSR - Subchapter 21-9	WS	RPT	Reporting, Failure to submit monthly operations report
EPR Chapter 21 WSR - Subchapter 21-7.5	28	SS	Failure to obtain Sanitary Survey and/or allow state to conduct survey
EPR Chapter 21 WSR - Subchapter 21-6.3	41	TT	Treatment (LT2 Unfiltered Systems), Failure to maintain Cryptosporidium inactivation and/or take action to address increased contamination due to watershed changes
EPR Chapter 21 WSR - Subchapter 21-6.6 4	42	TT	Treatment (GWR), Failure to take corrective action in response to a positive source water sample
EPR Chapter 21 WSR - Subchapter 21-6.3	42	TT	Treatment (LT2 Filtered and Unfiltered Systems), Failure to meet treatment requirements
EPR Chapter 21 WSR - Subchapter 21-6.6.4	45	TT	Treatment (GWR), System with deficiency fails to complete corrective action and/or be in compliance with a State approved corrective action plan and schedule
EPR Chapter 21 WSR - Subchapter 21-7.2	WS	TT	Treatment, Failure to have capability for continuous disinfection
EPR Chapter 21 WSR - Subchapter 21-6	37	TT	Treatment (IESWTR/LT1), Failure to profile or consult with state before making a significant change to disinfection practice if required to develop a disinfection profile
EPR Chapter 21 WSR - Subchapter 21-6.11	40	TT	Treatment (Filter Backwash Rule), Failure to properly recycle
EPR Chapter 21 WSR - Subchapter 21-6.6.4	41	TT	Treatment (GWR), Failure to operate treatment with all compliance requirements, conduct applicable monitoring, and/or fails to maintain 4 log treatment of viruses and correct deficiency
EPR Chapter 21 WSR - Subchapter 21-6	41	TT	Treatment (SWTR) Disinfection Concentration, Failure to meet the residual disinfectant concentration level for longer than the required period of time
EPR Chapter 21 WSR - Subchapter 21-6	41	TT	Treatment (IESWTR/LT1), Failure to install and properly operate water treatment process which reliably achieve at least 99 percent (2-log) removal of Cryptosporidium

CITATION	code	type	VIOLATION
EPR Chapter 21 WSR - Subchapter 21-6	41	TT	Treatment (SWTR), Failure to meet the filtered water turbidity standard for the specific treatment used
EPR Chapter 21 WSR - Subchapter 21-6	42	TT	Treatment, (SWTR) Failure to install filtration for unfiltered system required to filter
EPR Chapter 21 WSR - Subchapter 21-6	43	TT	Treatment (IESWTR/LT1), A conventional or direct filtration system that exceeds 1 NTU in filtered water and/or alternative technology filtration that exceed the standard set by the State (not to exceed 5 NTU) in filtered water
EPR Chapter 21 WSR - Subchapter 21-6	44	TT	Treatment (IESWTR/LT1), A filtered system that fails to meet the turbidity requirements in at least 95% of the measurement taken each month
EPR Chapter 21 WSR - Subchapter 21-6.4	46	TT	Treatment (Stage 1 D/DBPR) Failure to meet the Total Organic Carbon removal value
EPR Chapter 21 WSR - Subchapter 21-6.6.4	48	TT	Treatment (GWR), A system with a fecal indicator positive sample and after 120 days of receiving notice of the fecal indicator positive sample has failed to: 1)complete corrective action and/or 2) be in compliance with State approved corrective action plan
EPR Chapter 21 WSR - Subchapter 21-6.5	58	TT	Treatment (LCR) Failure to install corrosion control treatment and/or source water treatment
EPR Chapter 21 WSR - Subchapter 21-6.6	59	TT	Treatment (LCR), Failure to maintain optimal water quality parameter minimums or ranges
EPR Chapter 21 WSR - Subchapter 21-6.5	64	TT	Treatment (LCR) Failure to replace the required amount of lead service lines
EPR Chapter 15 - Well Driller Licensing, Subchapter 15-302	DR	Well	Well Drilling, Drilling a well without a well driller license
EPR Chapter 15 - Well Driller Licensing, Subchapter 15-701	DR	Well	Well Drilling, Failure to submit a well completion report within 90 days of drilling fortunately
EPR Chapter 15 - Well Driller Licensing, Subchapter 15-704	DR	Well	Well Drilling, Failure to tag a complete well within 30 days

MINIMUM	MAXIMUM	WAIVER - 1st Violation	WAIVER - 2nd Violation	WAIVER - 3rd Violation
\$150	\$1,000	\$300	\$600	\$900
\$300	\$1,500	\$450	\$900	\$1,350
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$150	\$1,000	\$300	\$600	\$900
\$300	\$1,500	\$450	\$900	\$1,350
\$75	\$500	\$150	\$300	\$450
\$75	\$500	\$150	\$300	\$450

tested or a default judgment is entered.

§ 25-103. Purpose

It is the purpose of these rules to establish the use of tickets as a tool to address environmental violations under the jurisdiction of the Secretary and the Board. Further, this rule sets out the minimum, maximum and waiver penalty amounts for each violation for which a ticket may be issued.

§ 25-104. Applicability

These rules apply to any ticket issued pursuant to 10 V.S.A. § 8019 for any violation listed in Table 1 of this rule.

§ 25-105. Eligible violations and penalties

- (a) A schedule of violations for which a ticket may be issued and associated penalties is attached as Table 1. Each listed violation shall be enforceable in the judicial bureau pursuant to 4 V.S.A. chapter 29.
- (b) The maximum penalty for a single violation is established in Table 1 of this rule. In no case may a penalty for a single violation exceed \$3000, excluding court fees.
- (c) The minimum penalty for a single violation is established in Table 1 of this rule. In no case may a penalty for a single violation be less than the minimum amount established by this rule, excluding court fees.
- (d) The waiver penalty for a single violation is established in Table 1 of this rule. The table includes enhanced waiver penalties which may be assessed when a violation is repeated.
- (e) More than one respondent may be issued a ticket for the same violation if multiple respondents are responsible and/or liable for the violation.

§ 25-106. Form of tickets

Tickets issued under this rule shall be in the form approved and distributed by the court administrator and contain all information required by 4 V.S.A. § 1105.

§ 25-107. Effect of tickets

- (a) A ticket issued under this section shall preclude the Secretary from seeking an additional monetary penalty for the violation specified in the ticket when any one of the following occurs:
 - (1) The waiver penalty is paid.
 - (2) Judgment is entered after trial or appeal.
 - (3) A default judgment is entered.
- (b) Notwithstanding this preclusion, the Secretary:
 - (1) may issue additional tickets or initiate an enforcement action under chapter 201, including a monetary penalty when a violation is continuing or is repeated; and
 - (2) may also bring an enforcement action to obtain injunctive relief or remediation and if such an action is brought the Secretary may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation.

§ 25-108. Administration of ticketing program

- (a) The Secretary shall be responsible for the implementation and operation of the program established by this rule. The implementation and operation of this rule may be delegated by the Secretary. The Secretary may enter into a memorandum of understanding with the Board to coordinate the operation and implementation of this rule.
- (b) The Secretary shall maintain a list of names of Agency and Board staff authorized to issue tickets and the violations for which they are authorized to issue tickets.
- (c) The Secretary shall adopt guidelines for the implementation of this rule by ANR staff. At a minimum, these guidelines shall include:
 - (1) The training required before individual staff are authorized to issue tickets.
 - (2) The mechanics of drafting and issuing a ticket.
 - (3) The internal review process that shall take place prior to the issuance of a ticket.
 - (4) The internal review process that shall take place prior to a ticket being amended or dismissed.

§ 25-109. Severability

The provisions of any section of these rules are severable. If any provision of these rules is found invalid by a court, or if any application of these rules to any person or circumstance is found invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.



Again, please if you have questions, comments or concerns, contact Gary Kessler at 802 241 3820 or gary.kessler@state.vt.us or visit the website at <http://www.anr.state.vt.us/dec/dec.htm>