

No. 170. An act relating to miscellaneous natural resources and development subjects.

(H.446)

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

* * * Water Quality Reporting * * *

Sec. 1. 10 V.S.A. § 1264(k) is amended to read:

(k) Report on treatment practices. As part of the report required under section 1389a of this title, the Secretary annually shall report the following:

(1) whether the phosphorus load from new development permitted under this section by the Secretary in the Lake Champlain watershed in the previous calendar year is achieving at least a 70 percent average phosphorus load reduction;

(2) the estimated total phosphorus load reduction from new development, redevelopment, and retrofit of impervious surface permitted under this section in the previous ~~calendar~~ State fiscal year; and

(3) the number of projects and the percentage of projects as a whole that implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices, or Tier 3 stormwater treatment practices in the previous ~~calendar~~ State fiscal year.

Sec. 2. 10 V.S.A. § 1386 is amended to read:

§ 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN

TOTAL MAXIMUM DAILY LOAD

* * *

(e) Beginning on ~~February 1, 2016~~ January 15, 2019, and annually thereafter, the Secretary, ~~after consultation with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation, shall submit to the House Committee on Natural Resources, Fish, and Wildlife a summary of activities and measures of progress of water quality ecosystem restoration programs~~ shall report the status of Lake Champlain Total Maximum Daily Load implementation plan milestones, Phase 2 and beyond, identified in Tactical Basin Plan Implementation Tables for each basin due for an U.S. Environmental Protection Agency interim or final report card in accordance with the TMDL Accountability Framework schedule. The provisions of 2 V.S.A. § 20(d) ~~(expiration of required reports)~~, shall not apply to the report to be made under this subsection.

Sec. 3. 10 V.S.A. § 1389a is amended to read:

§ 1389a. CLEAN WATER INVESTMENT REPORT

* * *

(b) The Report shall include:

(1) Documentation of progress or shortcomings in meeting established indicators for clean water restoration.

(2) ~~A summary of additional funding sources pursued by the Board, including whether those funding sources were attained; if it was not attained, why it was not attained; and where the money was allocated from the Fund.~~

[Repealed.]

(3) A summary of water quality problems or concerns in each watershed basin of the State, a list of water quality projects identified as necessary in each basin of the State, and how identified projects have been prioritized for implementation. The water quality problems and projects identified under this subdivision shall include programs or projects identified across State government and shall not be limited to projects listed by the Agency of Natural Resources in its watershed projects database.

(4) A summary of any changes to applicable federal law or policy related to the State's water quality improvement efforts, including any changes to requirements to implement total maximum daily load plans in the State.

(5) ~~A summary of available federal funding related to or for water quality improvement efforts in the State.~~ [Repealed.]

(6) Beginning on January 2023, a summary of the administration of the grant programs established under sections 925-928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

(c) The Report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives.

The provisions of 2 V.S.A. § 20(d) ~~(expiration of required reports)~~, shall not apply to the report required by this section.

(d)(1) The Secretary of Administration shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section.

(2) The Secretary of Administration shall develop user-friendly issue briefs, tables, or executive summaries that make the information required under subdivision (b)(3) available to the public separately from the report required by this section.

(3) On or before September 1 of each year, the Secretary of Administration shall submit to the Joint Fiscal Committee ~~an interim report regarding the information required under subdivision (b)(5) of this section relating to available federal funding~~ a summary of available federal funding related to or for water quality efforts in the State.

* * * Waste Management Assistance * * *

Sec. 4. [Deleted.]

Sec. 5. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have three accounts: one for Solid Waste Management Assistance, one for Hazardous Waste Management Assistance,

and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax that is deposited to the Hazardous Waste Management Assistance Account exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13; and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be deposited into the appropriate Fund account. Disbursements from the Fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

(b) The Secretary may authorize disbursements from the Solid Waste Management Assistance Account for the purpose of enhancing solid waste management in the State in accordance with the adopted waste management plan. This includes:

(1) The costs of implementation planning, design, obtaining permits, construction, and operation of State or regional facilities for the processing of recyclable materials and of waste materials that because of their nature or composition create particular or unique environmental, health, safety, or management problems at treatment or disposal facilities.

(2) The costs of assessing existing landfills, and eligible costs for closure and any necessary steps to protect public health at landfills operating before January 1, 1987, provided those costs are the responsibility of the municipality or solid waste management district requesting assistance. The Secretary of Natural Resources shall adopt by procedure technical and financial criteria for disbursements of funds under this subdivision.

(3) The costs of preparing the State waste management plan.

(4) Hazardous waste pilot projects consistent with this chapter.

(5) The costs of developing markets for recyclable material.

(6) The costs of the Agency of Natural Resources in administering solid waste management functions that may be supported by the Fund established in subsection (a) of this section.

(7) A portion of the costs of administering the Environmental Division established under 4 V.S.A. chapter 27. The amount of \$120,000.00 per fiscal year shall be disbursed for this purpose.

(8) The costs, not related directly to capital construction projects, that are incurred by a district, or a municipality that is not a member of a district, in

the design and permitting of implementation programs included in the adopted Solid Waste Implementation Plan of the district or of the municipality that is not a member of a district. These disbursements shall be issued in the form of advances requiring repayment. These advances shall bear interest at an annual rate equal to the interest rate ~~which~~ that the State pays on its bonds. These advances shall be repaid in full by the grantee ~~no~~ not later than 24 months after the advance is awarded.

(9) The Secretary shall annually allocate ~~17~~ 20 percent of the receipts of this account, based on the projected revenue for that year, for implementation of the Plan adopted pursuant to section 6604 of this title and Solid Waste Implementation Plans adopted pursuant to 24 V.S.A. § 2202a.

(10) The costs of the proper disposal of waste tires. Prior to disbursing funds under this subsection, the Secretary shall provide a person with notice and opportunity to dispose of waste tires properly. The Secretary may condition a disbursement under this subsection on the repayment of the disbursement. If a person fails to provide repayment subject to the terms of a disbursement, the Secretary may initiate an action against the person for repayment to the Fund or may record against the property of the person a lien for the costs of cleaning up waste tires at a property.

* * *

(e) The Secretary may allocate funds at the end of the fiscal year from the Solid Waste Management Assistance Account to the Fund, established

pursuant to section 1283 of this title, upon a determination that the funds available in the Environmental Contingency Fund are insufficient to meet the State's obligations pursuant to ~~subdivision 1283(b)(9)~~ subdivisions 1283(b)(1)–(9) of this title. Prior to any transfer of funds from the Solid Waste Management Assistance Account to the Environmental Contingency Fund, and after all Agency program costs are covered, an additional 10 percent of the receipts of the Solid Waste Management Assistance Account shall be allocated under subdivision 6618(b)(9) of this title. Any expenditure of funds transferred to the Environmental Contingency Fund shall be restricted to funding the activities specified in ~~subdivision 1283(b)(9)~~ subdivisions 1283(b)(1)–(9) of this title. In no case shall the unencumbered balance of the Solid Waste Account following the transfer authorized under this subsection be less than \$300,000.00.

* * * Solid Waste Hauler * * *

Sec. 6. 10 V.S.A. § 6602(28) is amended to read:

(28) “Commercial hauler” means any person that transports:

(A) regulated quantities of hazardous waste; or

(B) solid waste for compensation in a motor vehicle ~~having a rated capacity of more than one ton.~~

Sec. 7. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION; COMMERCIAL HAULER

PERMIT REQUIREMENT

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary may specify conditions that the Secretary deems necessary to ensure compliance with State law.

(b) As used in this section:

(1) “Commercial hauler” means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a motor vehicle.

* * *

(3) The Secretary shall not require a commercial hauler to obtain a permit under this section, comply with the disclosure requirements of this section, comply with the reporting and registration requirements of section 6608 of this title, or pay the fee specified in 3 V.S.A. § 2822, if:

(A) the commercial hauler does not transport more than four cubic yards of solid waste at any time; and

(B) the solid waste transportation services performed are incidental to other nonwaste ~~transportation-related~~ services performed by the commercial hauler.

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* * * Brownfields * * *

Sec. 8. 10 V.S.A. § 6615(d)(3) is amended to read:

(3) A municipality shall not be liable under subdivision (a)(1) of this section as an owner provided that the municipality can show all the following:

(A) ~~The property was acquired by virtue of its function as sovereign through bankruptcy, tax delinquency, abandonment, or other similar circumstances.~~ [Repealed.]

(B) The municipality did not cause, contribute to, or worsen a release or threatened release of a hazardous material at the property.

(C)(i) The municipality has entered into an agreement with the Secretary, prior to the acquisition of the property, requiring the municipality to conduct a site investigation with respect to any release or threatened release of a hazardous material and an agreement for the municipality's marketing of the property acquired.

(ii) The Secretary shall consult with the Secretary of Commerce and Community Development on the plan related to the marketing of the property.

(iii) The municipality may assert a defense to liability only after implementing a site investigation at the property acquired and taking reasonable steps defined by the agreement with the Secretary to market the property.

(iv) In developing an agreement regarding site investigation, the Secretary shall consider the degree and extent of the known releases of hazardous materials at the property, the financial ability of the municipality, and the availability of State and federal funding when determining what is required by the agreement for the investigation of the site.

Sec. 9. 10 V.S.A. § 6646 is amended to read:

§ 6646. FORBEARANCE

~~The State may not bring an action against an applicant based on liability pursuant to subdivision 6615(a)(1) of this title, provided~~ Provided that the applicant has been determined to be eligible for the Program and is working in good faith toward meeting the obligations required by this subchapter;

(1) the State may not bring an action against an applicant based on liability as an owner pursuant to subdivision 6615(a)(1) of this title; and

(2) with respect to prospective purchasers, no person may bring a claim for contribution pursuant to 6615(i), provided:

(A) the prospective purchaser's liability is limited to liability as an owner pursuant to section 6615(a)(1) of this title; and

(B) the Secretary has approved a corrective action plan for the site pursuant to section 6648 of this title.

* * * Department of Environmental Conservation; Standard Procedures * * *

Sec. 10. 10 V.S.A. § 7702(2) is amended to read:

(2) "Administrative amendment" means an amendment to an individual permit, general permit, or notice of intent under a general permit that corrects typographical errors, changes the name or mailing address of a permittee, authorizes a transfer of a permit when authorized under rule, or makes other similar changes to a permit that do not require technical review of the permitted activity or the imposition of new conditions or requirements.

Sec. 11. 10 V.S.A. § 7713 is amended to read:

§ 7713. TYPE 2 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering applications for individual permits, except for individual permits specifically listed in other sections of this subchapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 2 Procedures. This section governs an application for each of the following:

(A) an individual permit issued pursuant to the Secretary's authority under this title and 29 V.S.A. chapter 11, except for permits governed by sections 7712 and 7714-7716 of this chapter;

(B) ~~a wetland determination under section 914 of this title;~~

[Repealed.]

(C) an individual shoreland permit under chapter 49A of this title;

(D) a public water system source permit under section 1675 of this title;

(E) a provisional certification issued under section 6605d of this title;

and

(F) a corrective action plan under section 6648 of this title.

(b) Notice of application.

(1) The applicant shall provide notice of the application to adjoining property owners.

(A) For public water system source protection areas, the applicant also shall provide notice to all property owners located in:

(i) zones 1 and 2 of the source protection area for a public community water system source; and

(ii) the source protection area for a public nontransient noncommunity water system source.

(B) For an individual shoreland permit under chapter 49A of this title:

(i) The notice to adjoining property owners shall be to the adjoining property owners on the terrestrial boundary of the shoreland.

(ii) This chapter does not require notice to owners of property across the lake as defined in that chapter.

(2) The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of a draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. The Secretary shall hold a public meeting whenever any person files a written request for such a meeting. The Secretary otherwise may hold a public meeting at his or her discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. When the Secretary issues the final decision, the Secretary shall provide a response to comments.

Sec. 12. 10 V.S.A. § 7715 is amended to read:

§ 7715. TYPE 4 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering

applications for notice of intent under a general permit and other permits listed in this section.

(2) The procedures under this section shall be known as Type 4

Procedures. This section applies to each of the following:

(A) a notice of intent under a general permit issued pursuant to the Secretary's authority under this title; ~~and~~

(B) an application for each of following permits:

(i) construction or operation of an air contaminant source or class of sources not identified in the State's implementation plan approved under the Clean Air Act;

(ii) construction or expansion of a public water supply under chapter 56 of this title, except that a change in treatment for a public water supply shall proceed in accordance with section 7714 of this chapter;

(iii) a category 1 underground storage tank under chapter 59 of this title;

(iv) a categorical solid waste certification under chapter 159 of this title; and

(v) a medium scale composting certification under chapter 159 of this title; and

(C) a wetland determination under section 914 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period of at least 14 days on the draft decision.

(d) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin. The Secretary shall provide a response to comments.

Sec. 13. 10 V.S.A. § 7717(b) is amended to read:

(b) ~~A~~ For all permits except those subject to Type 5 Procedures, a minor amendment shall be subject to the Type 4 Procedures, except that the Secretary need not provide notice of the administratively complete application. For Type 5 Procedures, a minor amendment shall be subject to the same procedures applicable to the original permit decision under this chapter.

Sec. 14. 29 V.S.A. § 405 is amended to read:

§ 405. INVESTIGATION AND DETERMINATION OF PUBLIC GOOD

(a) When an application is filed under this chapter, the Department shall proceed in accordance with 10 V.S.A. chapter 170.

(b) In determining whether the encroachment will adversely affect the public good, the Department shall consider the effect of the proposed

encroachment as well as the potential cumulative effect of existing encroachments on water quality, fish and wildlife habitat, aquatic and shoreline vegetation, navigation, and other recreational and public uses, including fishing and swimming, consistency with the natural surroundings, and consistency with municipal shoreland zoning ordinances or any applicable State plans. If the Department determines, after reviewing the applications, the written comments filed within the notice period, and the results of the investigation, that the proposed encroachment will not adversely affect the public good, the application shall be approved.

~~(c) The action of approving or denying an application shall not be effective until 10 days after the Department's notice of action. [Repealed.]~~

* * * Salvage Yard Operator Training * * *

Sec. 15. 24 V.S.A. § 2249 is amended to read:

§ 2249. ~~SALVAGE YARD OPERATOR TRAINING~~

~~At least annually, the owner or operator of a salvage yard shall attend a training workshop conducted by or approved by the Agency of Natural Resources regarding the requirements of this subchapter, best management practices, existing and proposed environmental standards, and other applicable federal, State, or municipal requirements. [Repealed.]~~

* * * Drinking Water Revolving Fund * * *

Sec. 16. 24 V.S.A. § 4763c(i) is amended to read:

(i) ~~Loans awarded for the purpose of purchasing land or conservation easements to protect public water sources shall be for a term of no more than 20 years at an annual interest rate of three percent.~~ [Repealed.]

* * * Department of Environmental Conservation Permit Fees * * *

Sec. 17. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

* * *

(9)(A) For a solid waste hauler:

(i) \$50.00 per vehicle for small vehicles with two ~~axels~~ axles, including pickup trucks, utility trailers, and stakebody trucks.

(ii) \$75.00 per vehicle for vehicles with three or four ~~axels~~ axles, including packer trucks, dump trucks, and roll offs.

(iii) \$100.00 per vehicle for tractors and any number ~~axel-tandem~~ axle trailers.

(B) For a hazardous waste hauler: an annual operating fee of \$125.00 per vehicle.

* * *

(33) ~~\$10.00 per 1,000 gallons~~ \$0.01 per gallon based on the rated capacity of the tank being pumped rounded to the nearest ~~1,000~~ gallon.

* * * Natural Resources Board * * *

Sec. 18. 10 V.S.A. § 6007(a) is amended to read:

(a) Prior to the division or partition of land, the seller or other person dividing or partitioning the land shall prepare an “Act 250 Disclosure Statement.” A person who is dividing or partitioning land, but is not selling it, shall file a copy of the statement with the town clerk, who shall record it in the land records. The seller who is dividing or partitioning land as part of the sale shall provide the buyer with the statement within ~~10~~ 14 days of entering into a purchase and sale agreement for the sale or exchange of land, or at the time of transfer of title if no purchase and sales agreement was executed, and shall file a copy of the statement with the town clerk, who shall record it in the land records. Failure to provide the statement as required shall, at the buyer’s option, render the purchase and sales agreement unenforceable. If the disclosure statement establishes that the transfer is or may be subject to chapter 151 of this title, and that information had not been disclosed previously, then at the buyer’s option the contract may be rendered unenforceable. The statement shall include the following, on forms determined jointly by the Board and the Commissioner of Taxes:

(1) The name and tax identification number of the seller’s or divider’s or partitioner’s spouse, and parents and children, natural or adoptive, and whether

or not any of the individuals named will derive profit or consideration, or acquire any other beneficial interest from the partition or division of the land in question. However, this information will be required only to the extent that:

(A) the individuals in question have been sellers or buyers of record with respect to the partition or division of other land within the previous five years; and

(B) that other land is located within five miles of any part of the land currently being divided or partitioned or is located within the jurisdictional area of the same District Environmental Commission.

(2) The name and tax identification number of all individuals and entities affiliated with the seller or divider or partitioner for the purpose of deriving profit or consideration, or acquiring any other beneficial interest from the partition or division of the land, as that affiliation is conditioned and limited according to the definition of “person” in subdivision 6001(14) of this title.

(3) A statement identifying any partition or division of land that has been completed:

(A) within the preceding five years;

(B) by any of the entities or individuals identified under subdivision (1) or (2) of this subsection (a) as deriving profit or consideration or acquiring any other beneficial interest from the partition or division of the land; and

(C) within five miles of any part of the land being divided or partitioned, or within the jurisdictional area of the district environmental commission in which the land is located.

(4) Notice that a permit may be required under this chapter.

Sec. 19. 10 V.S.A. § 6047(b) is amended to read:

(b) Within ~~40~~ 14 days of receipt, the Board shall forward a copy of the petition to the District Commission and regional planning agency for comments and recommendations. If no regional planning commission exists, the copy shall be sent to the affected municipal planning commissions and municipalities.

Sec. 20. 10 V.S.A. § 6081(h) is amended to read:

(h) No permit or permit amendment is required for closure operations at an unlined landfill ~~which~~ that began disposal operations prior to July 1, 1992 and ~~which~~ that has been ordered closed under section 6610a or chapter 201 of this title. Closure and post-closure operations covered by this provision are limited to the following on-site operations: final landfill cover system construction and related maintenance operations, water quality monitoring, landfill gas control systems installation and maintenance, erosion control measures, site remediation, and general maintenance. Prior to issuing a final order for closure for landfills qualifying for this exemption, a public informational meeting shall be noticed and held by the Secretary with public comment accepted on the draft order. The public comment period shall extend ~~no~~ not less than ~~seven~~

14 days before the public meeting and 14 days after the meeting. Public comment related to the public health, water pollution, air pollution, traffic, noise, litter, erosion, and visual conditions shall be considered. Landfills with permits in effect under this chapter as of July 1, 1994, shall not qualify for an exemption as described under this section.

Sec. 21. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
REVIEW

* * *

(b) Upon an application being ruled complete, the District Commission shall determine whether to process the application as a major application with a required public hearing or process the application as a minor application with the potential for a public hearing in accordance with Board rules.

(1) For major applications, the District Commission shall provide notice not less than ~~10~~ 14 days prior to any scheduled hearing or prehearing conference to: the applicant; the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary; adjoining landowners as deemed appropriate by the District

Commission pursuant to the rules of the Board, and any other person the District Commission deems appropriate.

* * *

(e) Any notice for a major or minor application, as required by this section, shall also be published by the District Commission in a local newspaper generally circulating in the area where the development or subdivision is located not more than ten days after receipt of a complete application.

(1) Notice of any hearing for a major application shall be published, as required by this section, not less than ~~10~~ 14 days before the hearing or prehearing conference.

(2) If the District Commission determines that it is appropriate to hold a hearing for an application that was originally noticed as a minor application, then the application shall be renoticed as a major application in accordance with the requirements of this section and Board rules, except that there shall be no requirement to publish the second notice in a local newspaper. Direct notice of the hearing to all persons listed in subdivisions (b)(1) and (3) of this section shall be deemed sufficient.

* * *

Sec. 22. 10 V.S.A. § 6086(f) is amended to read:

(f) Prior to any appeal of a permit issued by a District Commission, any aggrieved party may file a request for a stay of construction with the District Commission together with a declaration of intent to appeal the permit. The

stay request shall be automatically granted for ~~seven~~ 14 days upon receipt and notice to all parties and pending a ruling on the merits of the stay request pursuant to Board rules. The automatic stay shall not extend beyond the 30-day appeal period unless a valid appeal has been filed with the Environmental Division. The automatic stay may be granted only once under this subsection during the 30-day appeal period. Following appeal of the District Commission decision, any stay request must be filed with the Environmental Division pursuant to the provisions of chapter 220 of this title. A District Commission shall not stay construction authorized by a permit processed under the Board's minor application procedures.

Sec. 23. 10 V.S.A. § 6086b(2) is amended to read:

(2) The request shall be complete as to the criteria listed in subdivision (1) of this subsection and need not address other criteria of subsection 6086(a) of this title.

(A) The requestor shall file the request in accordance with the requirements of subsection 6084(a) of this title and the requestor shall provide a copy of the request to each agency and department listed in subdivision (3) of this section.

(B) Within ~~five~~ 10 days of the request's filing, the District Coordinator shall determine whether the request is complete. Within ~~five~~ 10 days of the date the District Coordinator determines the request to be complete, the District Commission shall provide notice of the complete request to each

person required to receive a copy of the filing under subdivision (2)(A) of this section and to each adjoining property owner and shall post the notice and a copy of the request on the Board's web page. ~~The computation of time under this subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.~~

* * * Food Residuals Management * * *

Sec. 24. MORATORIUM ON ISSUANCE OF SOLID WASTE FACILITY
CERTIFICATIONS FOR FOOD DEPACKAGING FACILITIES

Beginning on May 1, 2022, the Secretary of Natural Resources shall not, under 10 V.S.A. chapter 159, issue a new solid waste facility certification for a food depackaging facility or amend an existing solid waste facility certification that results in an increase of capacity at a currently certified food depackaging facility until the rules required under Sec. 27 of this act are adopted and in effect.

Sec. 25. STAKEHOLDER GROUP ON THE ROLE OF DEPACKAGERS IN
MANAGING FOOD WASTE

(a) On or before July 1, 2022, the Secretary of Natural Resources shall convene a collaborative stakeholder process to make recommendations on the proper management of packaged organic materials, including:

(1) recommendations on whether the organics management hierarchy in 10 V.S.A. § 6605k should apply to each generator of organic waste;

(2) whether the Agency of Natural Resources should modify its existing policy surrounding the source separation of organic wastes; and

(3) any recommendations on the proper use of depackagers in the management of organic waste.

(b) The stakeholder process shall include the following participants appointed by the Secretary of Natural Resources:

(1) a representative of the Agency of Agriculture, Food and Markets;

(2) a food waste composter;

(3) a farm that allows animals to forage food waste;

(4) a representative of a company operating a depackaging facility;

(5) a representative from the Vermont Retailers and Grocers

Association;

(6) a representative from a company that anaerobically digests food waste; and

(7) a representative from a food product manufacturing company in Vermont.

(c) On or before January 15, 2023, the Secretary of Natural Resources shall submit the recommendations of the stakeholder process required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

Sec. 26. STUDY ON MICROPLASTICS AND PFAS IN FOOD
PACKAGING AND FOOD WASTE

On or before January 15, 2024, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife a report regarding the prevalence of microplastics and per- and polyfluoroalkyl substances (PFAS) in food waste and food packaging in Vermont. The report shall include:

(1) a list of the organics management facilities certified in the State under 10 V.S.A. chapter 159;

(2) a summary of the organics management system in Vermont that includes the transportation of food processing residuals and postconsumer food waste and the materials created by organics management facilities and how that material is managed after creation;

(3) a summary of existing data on the levels of microplastics and plastics in the material produced from organics management facilities in the State, including whether the materials have levels of PFAS above background levels;

(4) a summary of the methods used domestically and internationally by jurisdictions with physical contamination standards to evaluate the percentage by weight of physical contamination present in the material produced by

depackaging facilities, residual waste, digestate, compost, and soil amendments;

(5) identification of data gaps to the effective management of microplastics and recommendations on how to close those data gaps; and

(6) recommendations on management changes that will reduce the levels of microplastics in the environment, including:

(A) special management requirements at facilities;

(B) bans of certain containers or packaging that pose greater management risks;

(C) restrictions on the location of managing materials that contain high levels of microplastics;

(D) implementation of the food residuals hierarchy set forth in 10 V.S.A. § 6605k or the current requirements around source separation of organic material from waste material; and

(E) if possible in light of the data, a recommendation for a standard methodology for testing microplastics and a health-based standard for microplastics.

Sec. 27. RULEMAKING

(a) The Secretary of Natural Resources shall adopt by rule requirements for the operation of food waste management facilities certified to operate in the State. The rules may:

- (1) establish management standards for the operation of a food waste management facility;
 - (2) prohibit certain containers and packaging from being managed in a food waste management facility;
 - (3) establish standards for hand source separation instead of mechanical depackaging;
 - (4) establish requirements for implementation of the food residuals hierarchy set forth in 10 V.S.A. § 6605k;
 - (5) place restrictions on the types of food waste that may be managed at a food waste management facility;
 - (6) adopt a testing methodology for microplastics;
 - (7) adopt a standard for microplastics from food waste management facilities that protects human health or natural resources; or
 - (8) at the recommendation of the Secretary of Agriculture, Food and Markets, adopt a standard for microplastics or per- and polyfluoroalkyl substances from food waste management facilities that protects animal health, agricultural soils, or other agricultural resources.
- (b) The Secretary of Natural Resources shall not initiate rulemaking under this section until the recommendations required by Secs. 25 and 26 of this act are submitted to the Vermont General Assembly.

Sec. 28. REPEAL

Sec. 24 (moratorium on food depackaging facilities) of this act shall be repealed on the date that the rules required under Sec. 27 of this act are adopted and in effect.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 24–28 (food residuals management) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2022.

Date Governor signed bill: June 2, 2022