

1 S.111

2 Introduced by Senators Brock and Sears

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; judiciary; public participation

6 Statement of purpose: This bill proposes to require the environmental division
7 of the superior court to hold an administrative order or an assurance of
8 discontinuance for the enforcement of a statute related to water quality
9 standards, water pollution, air quality, hazardous waste, or hazardous materials
10 for 10 days in order to allow a person with standing to permissively intervene
11 in the enforcement proceeding.

12 An act relating to public participation in environmental enforcement

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

14 Sec. 1. 10 V.S.A. § 8020 is added to chapter 201 to read:

15 § 8020. PUBLIC PARTICIPATION IN ENFORCEMENT

16 (a) The environmental division shall hold an administrative order or an
17 assurance of discontinuance for 10 calendar days after receipt to allow a person
18 with standing who has provided written comment on the proposed enforcement
19 action the opportunity to permissively intervene pursuant to Rule 24(b) of the
20 Vermont Rules of Civil Procedure. When the environmental division permits a

1 person with standing to intervene, it shall be for the sole purpose of
2 establishing by a preponderance of the evidence that the proposed enforcement
3 action is insufficient to carry out the purposes of this chapter.

4 (b) As used in this section, a “person with standing” means a person:

5 (1) who alleges an injury to a particularized interest protected by a
6 statute listed under:

7 (A) 10 V.S.A. chapter 23, relating to air quality;

8 (B) 10 V.S.A. chapter 47, relating to water pollution control and
9 water quality standards;

10 (C) 10 V.S.A. chapter 159, relating to hazardous waste and hazardous
11 materials; and

12 (2) for whom the alleged injury is attributable to a violation addressed
13 by an assurance of discontinuance or administrative order issued under this
14 chapter.

15 Sec. 2. REPEAL

16 10 V.S.A. § 8020 (public participation in environmental enforcement) shall
17 be repealed July 1, 2012.

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect July 1, 2011.