

Senate Calendar

WEDNESDAY, MARCH 09, 2016

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL WEDNESDAY, MARCH 9, 2016

Third Reading

S. 154 An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening

Amendment - Sen. McCormack 485

Amendment - Sen. Benning 485

Amendment - Sen. Baruth 486

UNFINISHED BUSINESS OF MARCH 8, 2016

Second Reading

Favorable with Recommendation of Amendment

S. 123 An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation

Natural Resources and Energy Report - Sen. Snelling 486

NEW BUSINESS

Second Reading

Favorable with Recommendation of Amendment

S. 214 An act relating to transfer of Exchange plan administration to health insurance carriers

Finance Report - Sen. Lyons 522

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

- S. 40** An act relating to the creation of a Vulnerable Adult Fatality Review Team
Health and Welfare Report - Sen. Pollina 524
- S. 75** An act relating to food and lodging establishments
Health and Welfare Report - Sen. Collamore 527
Finance Report - Sen. Ayer 539
- S. 116** An act relating to rights of offenders in the custody of the Department of Corrections
Institutions Report - Sen. Flory 541
Judiciary Report - Sen. Benning 543
- S. 169** An act relating to the Rozo McLaughlin Farm-to-School Program
Agriculture Report - Sen. Sirotkin 547

ORDERS OF THE DAY

ACTION CALENDAR

**CONSIDERATION POSTPONED UNTIL WEDNESDAY,
MARCH 9, 2016**

Third Reading

S. 154.

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

Amendment to S. 154 to be offered by Senator McCormack before Third Reading

Senator McCormack moves to amend the bill as follows:

First: In Sec. 2, 13 V.S.A. § 1702, by striking out subsection (c) in its entirety and inserting a new subsection (c) as follows:

(c)(1) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

(2) A person who violates subsection (a) of this section with the intent to influence the decision, opinion, recommendation, vote, or other exercise of discretion of a public servant shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

Second: In Sec. 2, 13 V.S.A. § 1702, in subsection (d), by inserting a subdivision (3) as follows:

(3) "Public servant" shall mean the holder of any public office and any employee of the State.

Amendment to S. 154 to be offered by Senator Benning before Third Reading

Senator Benning moves that the bill be amended in Sec. 2, 13 V.S.A. § 1702, by inserting a subsection (f) as follows:

(f) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

Amendment to S. 154 to be offered by Senator Baruth before Third Reading

Senator Baruth moves to amend the bill in Sec. 2, 13 V.S.A. § 1702, by striking out subsection (a) in its entirety and inserting a new subsection (a) as follows:

(a) A person shall not:

(1) intentionally threaten another person by words or conduct that are repeated or serious in nature; and

(2) as a result of the threat or threats, intentionally place the other person in reasonable apprehension of death or serious bodily injury.

UNFINISHED BUSINESS OF TUESDAY, MARCH 8, 2016

Second Reading

Favorable with Recommendation of Amendment

S. 123.

An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

Reported favorably with recommendation of amendment by Senator Snelling for the Committee on Natural Resources & Energy.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Environmental Conservation; Standard Procedures * * *

Sec. 1. 10 V.S.A. chapter 170 is added to read:

CHAPTER 170. DEPARTMENT OF ENVIRONMENTAL CONSERVATION; STANDARD PROCEDURES;

Subchapter 1. General Provisions

§ 7701. PURPOSE

The purpose of this chapter is to establish standard procedures for public notice, public meetings, and decisions relating to applications for permits issued by the Department of Environmental Conservation.

§ 7702. DEFINITIONS

As used in this chapter:

(1) “Adjoining property owner” means a person who owns land in fee simple, if that land:

(A) shares a property boundary with a tract of land where proposed or actual activity regulated by the Department is located; or

(B) is adjacent to a tract of land where such activity is located and the two properties are separated only by a river, stream, or public highway.

(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, 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.

(3) “Administrative record” means the application and any supporting data furnished by the applicant; all information submitted by the applicant during the course of reviewing the application; the draft permit or notice of intent to deny the application; the fact sheet and all documents cited in the fact sheet, if applicable; all comments received during the public comment period; the recording or transcript of any public meeting or meetings held; any written material submitted at a public meeting; the response to comments; the final permit; any document used as a basis for the final decision; and any other documents contained in the permit file.

(4) “Administratively complete application” means an application for a permit for which all initially required documentation has been submitted, and any required permit fee, and the information submitted initially addresses all application requirements but has not yet been subjected to a complete technical review.

(5) “Agency” means the Agency of Natural Resources.

(6) “Clean Air Act” means the federal statutes on air pollution prevention and control, 42 U.S.C. § 7401 et seq.

(7) “Clean Water Act” means the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

(8) “Commissioner” means the Commissioner of Environmental Conservation or the Commissioner’s designee.

(9) “Department” means the Department of Environmental Conservation.

(10) “Document” means any written or recorded information, regardless of physical form or characteristics, which the Department produces or acquires in the course of reviewing an application for a permit.

(11) “Environmental notice bulletin” or “bulletin” means the website and e-mail notification system required by 3 V.S.A. § 2826.

(12) “Fact sheet” means a document that briefly sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing a draft decision.

(13) “General permit” means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire State or a region of the State.

(14) “Individual permit” means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(15) “Major amendment” means an amendment to an individual permit or notice of intent under a general permit that necessitates technical review.

(16) “Minor amendment” means an amendment to an individual permit or notice of intent under a general permit that requires a change in a condition or requirement, does not necessitate technical review, and is not an administrative amendment.

(17) “Notice of intent under a general permit” means an authorization issued by the Secretary to undertake an action authorized by a general permit.

(18) “Permit” includes any permit, certification, license, registration, determination, or similar form of permission required from the Department by law.

(19) “Person” shall have the same meaning as under section 8502 of this title.

(20) “Person to whom notice is federally required” means a person to whom notice of an application or draft decision must be given under federal regulations adopted pursuant to the Clean Air Act or Clean Water Act.

(21) “Public meeting” means a meeting that is open to the public and recorded or transcribed, at which the Department shall provide basic information about the draft permit decision, an opportunity for questions to the applicant and the Department, and an opportunity for members of the public to submit oral and written comments.

(22) “Secretary” means the Secretary of Natural Resources or designee.

(23) “Technical review” means the application of scientific, engineering, or other professional expertise to the facts to determine whether activity for which a permit is requested meets the standards for issuing the permit under statute and rule.

§ 7703. RULES; ADDITIONAL NOTICE OR PROCEDURES

(a) Rules.

(1) Implementing rules. The Secretary may adopt rules to implement this chapter.

(2) Complex projects; preapplication process. The Secretary shall adopt rules to determine when a project requiring a permit is large and complex. These rules shall provide that an applicant proposing such a project, prior to filing an application for a permit, shall initiate a project scoping process pursuant to 3 V.S.A. § 2828 or shall hold an informational meeting that is open to the public. The rules shall ensure that:

(A) Written notice of an informational meeting under this section is sent to the owner of the land where the project is located if the applicant is not the owner; the municipality in which the project is located; the municipal and regional planning commissions for any municipality in which the project is located; if the project site is located on a boundary, any Vermont municipality adjacent to that boundary and the municipal and regional planning commissions for that municipality; and each adjoining property owner.

(B) The notice to adjoining property owners informs them of how they can continue to receive notices and information concerning the project as it is reviewed by the Secretary.

(C) The applicant furnishes by affidavit to the Secretary the names of those furnished notice and certifies compliance with the notice requirements of this subsection.

(D) The applicant and the Secretary or designee shall attend the meeting. The applicant shall respond to questions from other attendees.

(b) Additional notice.

(1) The Secretary may require, by rule or in an individual case, measures in addition to those directed by this chapter using any method reasonably calculated to give direct notice to persons potentially affected by a decision on the application.

(2) In an individual case, the Secretary may determine to apply the procedures of section 7713 (Type 2) of this chapter to the issuance of a permit otherwise subject to the procedures of section 7715 (Type 4) or section 7716 (Type 5) of this chapter.

§ 7704. ADMINISTRATIVE RECORD

(a) The Secretary shall create an administrative record for each application for a permit and shall make the administrative record available to the public.

(b) The Secretary shall base a draft or final decision on each application for a permit on the administrative record.

(c) With respect to permits issued under the Clean Air Act and Clean Water Act, the Secretary shall comply with any requirements under those acts concerning the maintenance and availability of the administrative record.

Subchapter 2. Standard Procedures

§ 7711. PERMIT PROCEDURES; STANDARD PROVISIONS

(a) Notice through the environmental notice bulletin. When this chapter requires notice through the environmental notice bulletin:

(1) The bulletin shall generate and send an e-mail to notify:

(A) each person requiring notice under section 7712 of this chapter;

(B) the applicant;

(C) each person on an interested persons list;

(D) each municipality in which the activity to be permitted is located, except for notice of a draft or final general permit; and

(E) each other person to whom this chapter directs that a particular notice be provided through the bulletin.

(2) At a minimum, each notice generated by the bulletin shall contain:

(A) the name and contact information for the person at the Agency processing the permit;

(B) the name and address of the permit applicant, if applicable;

(C) the name and address of the facility or activity to be permitted, if applicable;

(D) a brief description of the activity for which the permit would be issued;

(E) the length of the period for submitting written comments and the process for submitting those comments, if applicable, and notice of the requirement to submit comments during that period in order to seek administrative appeal under this chapter;

(F) the process for requesting a public meeting, if applicable;

(G) when a public meeting has been scheduled, the time, date, and location of the hearing and a brief description of the nature and purpose of the hearing;

(H) when issued, the draft permit or notice of intent to deny a permit, and the period and process for submitting written comments on that draft permit or notice;

(I) when issued, the final decision issuing or denying a permit, and the process for appealing the decision; and

(J) any other information that this chapter directs be included in a particular notice to be generated by the bulletin.

(3) The environmental notice bulletin shall provide notice by mail as required by 3 V.S.A. § 2826.

(b) Notice to adjoining property owners. When this chapter requires notice of an application to adjoining property owners, the applicant shall provide notice of the application by U.S. mail to all adjoining property owners, on a form developed by the Secretary, at the time the application is submitted to the Secretary. The form shall state how the property owners can continue to receive notices and information concerning the project as it is reviewed by the Secretary. The applicant shall provide a signed certification to the Secretary that all adjoining property owners have been notified of the application. However, if the applicant has provided written notice to adjoining property owners as part of the preapplication engagement process for complex projects under rules adopted in accordance with subsection 7703(a) of this title, then instead of the written notice required of the applicant by this subsection, the Department shall provide notice of the application through the environmental notice bulletin to those adjoining property owners who have requested notice.

(c) Comment period length. When this chapter requires the Secretary to provide a public comment period, the length of the period shall be at least 30 days, unless this chapter applies a different period for submitting comments on the particular type of permit.

(d) Period to request a public meeting. When this chapter allows a person to request a public meeting on a draft decision, the person shall submit the request within 14 days of the date on which notice of the draft decision is posted to the environmental notice bulletin, unless this chapter specifies a different period for requesting a hearing on the particular type of permit.

(e) Public meeting; notice; additional comment period. When the Secretary holds a public meeting under this chapter:

(1) The Secretary shall:

(A) provide at least 14 days' prior notice of the public meeting through the environmental notice bulletin, unless this chapter specifies a different notice period for a public meeting on the particular type of permit;

(B) include in the notice, in addition to the information required by subsection (a) of this section, the date the Secretary gave notice of an administrative complete application, if applicable; and

(C) hold the period for written comments open for at least five days after the meeting.

(2) The applicant or applicant's representative and the Secretary or designee shall attend the meeting. The applicant shall cause to be present those professionals retained in the preparation of the application. The applicant and the Secretary each shall have a duty, at the public meeting, to answer questions to the best of his or her ability.

(f) Draft decisions. When this chapter requires the Secretary to post a draft decision or draft general permit to the environmental notice bulletin, the Secretary shall post to the bulletin the draft decision or draft general permit and all documents on which the Secretary relied in issuing the draft.

(g) Response to comments. When this chapter requires the Secretary to provide a response to comments, the Secretary shall provide a response to each comment received during the comment period and the basis for the response. The Secretary also shall specify each provision of the draft decision that has been changed in the final decision and the reasons for each change. The Secretary shall post the response to comments to the environmental notice bulletin and send it to all commenters.

(h) Final decisions; content; notice.

(1) The Secretary's final decision on an application for a permit or on the issuance of a general permit shall include a concise statement of the facts and analysis supporting the decision that is sufficient to apprise the reader of the decision's factual and legal basis. The final decision also shall provide notice that it may be appealed and state the period for filing an appeal and how and where to file an appeal.

(2) When this chapter requires that the Secretary to post a final decision to the environmental notice bulletin, the Secretary also shall send a copy of the final decision to all commenters.

§ 7712. TYPE 1 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 adopting general permits and considering applications for individual permits under the Clean Air Act and Clean Water Act.

(2) This section governs each application for a permit to be issued by the Secretary pursuant to the requirements of the Clean Air Act and Clean Water Act and to each general permit to be issued under one of those acts. However, the subsection does not apply to a notice of intent under a general permit. The procedures under this section shall be known as Type 1 Procedures.

(b) Notice of application.

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

(2) At least 15 days prior to posting a draft decision, the Secretary shall provide notice of an administratively complete application through the environmental notice bulletin. The environmental notice bulletin shall send notice of such an application to each person to whom notice is federally required.

(3) This subsection (b) shall not apply to a general permit issued under this section.

(c) Notice of draft decision or draft general permit. The Secretary shall provide notice of a draft decision or draft general permit through the environmental notice bulletin and shall post the draft decision or permit to the bulletin. In addition to the requirements of section 7711 of this chapter:

(1) The Secretary shall post a fact sheet to the bulletin.

(2) The environmental notice bulletin shall send notice of the draft to each person to whom notice is federally required.

(3) The Secretary shall provide newspaper notice of the draft decision as required by this subdivision (3).

(A) If the draft decision pertains to an application for an individual permit, the Secretary shall provide notice in a daily or weekly newspaper in the area of the proposed project if the project is classified as major pursuant to the Clean Water Act or chapter 47 of this title or if required by federal statute or regulation.

(B) If the draft decision is a draft general permit, the Secretary shall provide notice in daily or weekly newspapers in each region of the State to which the draft general permit will apply.

(C) In addition to the requirements of this chapter and 3 V.S.A. § 2826, the notice from the environmental notice bulletin and the newspaper notice shall include all information required pursuant to applicable federal statute and regulation.

(d) Comment period. The Secretary shall provide a public comment period.

(e) Public meeting. On or before the end of the comment period, any person may request a public meeting on the draft decision or draft general permit issued under this section. The Secretary shall hold a public meeting at his or her discretion or whenever any person files a written request for a meeting. The Secretary shall provide at least 30 days' notice of the public meeting through the environmental notice bulletin. If the notice of the public meeting is not issued at the same time as the draft decision or draft general permit, the Secretary also shall provide notice of the public meeting in the same manner as required for the draft decision or permit under subdivision (c) of this section.

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

(g) Compliance with Clean Air and Water Acts. With respect to a issuance of a permit under the Clean Air Act or Clean Water Act, if a requirement under those acts directs the Secretary to provide the public with greater notice, opportunity to participate, or access to information than the corresponding requirement of this chapter, the Secretary shall comply with the federal requirement.

§ 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;

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

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

(E) 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. In addition, for public water system source protection areas, the applicant shall provide notice to all property owners located in:

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

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

(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. Any person may request a public meeting on a draft decision issued under this section or the Secretary may hold a 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.

§ 7714. TYPE 3 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 adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

- (i) an individual shoreland permit under chapter 49A of this title;
- (ii) an aquatic nuisance control permit under chapter 50 of this title;
- (iii) a change in treatment for a public water supply under chapter 56 of this title;
- (iv) a collection plan for mercury-containing lamps under section 7156 of this title;
- (v) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; and
- (vi) a primary battery stewardship plan under section 7586 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.

(d) Public meeting. Any person may request a public meeting on a draft decision issued under this section or the Secretary may hold a 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. The Secretary shall provide a response to comments.

§ 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 less than 10 tons per year under chapter 23 of this title;

(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.

(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 10 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.

§ 7716. TYPE 5 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 issuing emergency permits and other permits listed in this section.

(2) The procedures under this section shall be known as Type 5 Procedures. This section shall govern each of the following:

(A) issuance of temporary emergency permits under section 912 of this title;

(B) applications for public water system operational permits under chapter 56 of this title;

(C) issuance of authorizations, under a stream alteration general permit issued under chapter 41 of this title, for reporting without an

application, for an emergency, and for activities to prevent risks to life or of severe damage to improved property posed by the next annual flood;

(D) issuance of emergency permits issued under section 1268 of this title;

(E) issuance of emergency sludge and septage disposal approvals under section 6605 of this title; and

(F) shoreland registrations authorized under chapter 49A of this title.

(b) 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.

§ 7717. AMENDMENTS; RENEWALS

(a) A major amendment shall be subject to the same procedures applicable to the original permit decision under this chapter.

(b) A minor amendment shall be subject to the Type 4 Procedures, except that the Secretary need not provide notice of the administratively complete application.

(c) An administrative amendment shall not be subject to the procedural requirements of this chapter.

(d) A person may renew a permit under the same procedures applicable to the original permit decision under this chapter.

(e) With respect to amending a permit issued under the Clean Air Act or Clean Water Act, if a requirement under those acts directs the Secretary to provide the public with greater notice, opportunity to participate, or access to information than the corresponding requirement of this chapter, the Secretary shall comply with the federal requirement.

§ 7718. EXEMPTIONS

This subchapter shall not govern an application or petition for:

(1) an unsafe dam order under section 1095 of this title;

(2) a potable water supply and wastewater permit under section 1973(j) of this title;

(3) a hazardous waste facility certification under section 6606 of this title; and

(4) a certificate of need under section 6606a of this title.

Sec. 2. RULES; EFFECT ON PROCEDURAL REQUIREMENTS

Sec. 1 of this act shall take precedence over any inconsistent requirements for notice and processing of applications contained in rules adopted by the Department of Environmental Conservation other than rules pertaining to applications that are exempt under Sec. 1, 10 V.S.A. § 7718. On or before July 1, 2019, the Secretary of Natural Resources shall commence and complete amendments to conform these rules to Sec. 1.

* * * Environmental Notice Bulletin * * *

Sec. 3. 3 V.S.A. § 2826 is amended to read:

§ 2826. ENVIRONMENTAL NOTICE BULLETIN; PERMIT HANDBOOK

(a) ~~The Secretary shall establish procedures for the publication of an environmental notice bulletin, in order to provide for the timely public notification of permit applications, notices, comment periods, hearings, and permitting decisions. The Secretary shall begin publication of the bulletin by no later than July 1, 1995 on the Agency's website. At a minimum, the bulletin shall contain the following information:~~ The bulletin shall consist of a website and an e-mail notification system. The Secretary shall ensure that the website for the bulletin is readily accessible from the Agency's main web page.

~~(1) notice of administratively complete permit applications submitted to the Department of Environmental Conservation;~~ When 10 V.S.A. chapter 170 requires the posting of information to the bulletin, the Secretary shall post the information to the bulletin's website.

~~(2) notice of the comment period on the application and draft permit, if any, for those applications which were noticed;~~ When 10 V.S.A. chapter 170 requires notice to persons through the environmental notice bulletin, the bulletin shall generate an e-mail notification to those persons containing the information required by that chapter.

~~(3) notice of the issuance of a draft permit, if required by law, for those applications that were noticed;~~ The Secretary shall provide members of the public the ability to register, through the bulletin, for a list of interested persons to receive e-mail notification of permit activity based on permit type, municipality, proximity to a specified address, or a combination of these characteristics.

~~(4) information on how to request a public hearing or meeting;~~ If an individual does not have an e-mail address, the individual may request to receive notifications through U.S. mail. On receipt of such a request, the Secretary shall mail to the individual the same information that the individual would have otherwise received through an e-mail generated by the bulletin.

~~(5) notice of the name of the staff person to contact for information regarding public hearings or meetings with respect to a particular application.~~

~~(6) notice of the issuance or denial of a permit for those applications that were noticed.~~

(b) ~~By January 1, 1995, the~~ The Secretary shall publish a permit handbook which lists all of the permits required for the programs administered by the Department of Environmental Conservation. The handbook shall include examples of activities that require certain permits, an explanation in lay terms of each of the permitting programs involved, and the names, addresses, and telephone numbers of the person or persons to contact for further information for each of the permitting programs. The Secretary shall update the handbook ~~shall be updated,~~ periodically.

Sec. 4. REPORTS; RULEMAKING; BULLETIN; REVISION

(a) On or before September 15, 2016, the Secretary shall commence all rulemaking required by Sec. 1 of this act.

(b) On or before February 15, 2017, the Secretary shall report in writing to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources on the Secretary's progress in adopting the rules required by Sec. 1 of this act and revising and reestablishing the environmental notice bulletin in accordance with Secs. 1 and 3 of this act.

(c) On or before July 1, 2017, the Secretary shall revise and reestablish the environmental notice bulletin to conform to the requirements of Secs. 1 and 3 of this act.

(d) On or before February 15, 2020, the Secretary of Natural Resources shall submit a written report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources that:

(1) summarizes the Secretary's implementation of Secs. 1 through 3 of this act and details the steps taken to implement those sections;

(2) provides the Secretary's assessment of the effect of 10 V.S.A. chapter 170 on the amount of time taken by the Department of Environmental Conservation (DEC), during the preceding two calendar years, to review and issue decisions on applications and permits subject to that chapter and the data supporting that assessment;

(3) provides the Secretary's assessment of the effect of 10 V.S.A. chapter 170 on public participation, during the preceding two calendar years, in

the review of applications and permits subject to that chapter and the data supporting that assessment;

(4) provides:

(A) the total and annual number of appeals, during 2018 and 2019, of DEC decisions subject to 10 V.S.A. chapter 170 and how each appeal was resolved; and

(B) a comparison with the total and annual number of appeals, during calendar years 2015 through 2017, from DEC programs that become subject to the procedures of 10 V.S.A. chapter 170 on January 1, 2018, and how each of those appeals was resolved;

(5) provides the Secretary's overall evaluation of the success of Secs. 1 and 3 of this act in standardizing DEC permit procedures, increasing public participation in DEC's permit process, and resolving issues related to the issuance of DEC permits without appeal;

(6) based on the track record of 10 V.S.A. chapter 170 to date of the report, states the Secretary's recommendation on whether there is justification to amend the process for appealing those acts and decisions of the Secretary subject to that chapter; and

(7) if the recommendation under subdivision (6) of this subsection is affirmative, provides the Secretary's recommended amendments to the process for appealing those acts and decisions of the Secretary subject to 10 V.S.A. chapter 170.

* * * Appeals from Agency of Natural Resources to the Environmental
Division * * *

Sec. 5. 10 V.S.A. § 8504(d) is amended to read:

(d) Requirement ~~that aggrieved Act 250 parties~~ to participate before the District Commission or the Secretary.

(1) ~~No~~ An aggrieved person ~~may~~ shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status.

~~(2) Notwithstanding subdivision (d)(1) of this section,~~ However, notwithstanding these limitations, an aggrieved person may appeal an act or

decision of the District Commission if the Environmental judge determines that:

(A) there was a procedural defect ~~which that~~ prevented the person from obtaining party status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of party status; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

(2) An aggrieved person shall not appeal an act or decision of the Secretary unless the person submitted to the Secretary a written comment during the comment period or an oral comment at the public meeting conducted by the Secretary. In addition, the person may only appeal issues related to the person's comment to the Secretary. However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the Secretary if the Environmental judge determines that:

(A) there was a procedural defect that prevented the person from commenting during the comment period or at the public meeting or otherwise participating in the proceeding;

(B) the Secretary did not conduct a comment period and did not hold a public meeting; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

* * * Conforming Amendments * * *

Sec. 6. 10 V.S.A. § 556 is amended to read:

§ 556. PERMITS FOR THE CONSTRUCTION OR MODIFICATION OF AIR CONTAMINANT SOURCES

* * *

(b) The ~~secretary~~ Secretary may require an applicant to submit any additional information ~~which that~~ the ~~secretary~~ Secretary considers necessary to make the completeness determination required in subsection (a) of this section and shall not grant a permit until the information is furnished and evaluated. ~~For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public~~

~~informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source constitutes a major stationary source or major modification under the rules of the secretary and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than 10 tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 7. 10 V.S.A. § 556a is amended to read:

§ 556a. OPERATING PERMITS

* * *

~~(c) For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and a draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source is subject to subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than ten tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits. When an application is~~

filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

(e) A ~~person may renew~~ permit issued under this section ~~may be renewed~~ upon application to the ~~secretary~~ Secretary for a fixed period of time, not to exceed five years.

~~(1) A permit being renewed shall be subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance, except that a permit being renewed shall not be subject to the public notice and comment requirements of this chapter if all of the following apply:~~

~~(A) The secretary determines that no substantive changes have occurred at the air contaminant source that would affect emissions or require changes to the permit.~~

~~(B) The secretary determines no new statutory or regulatory requirements need to be added to the permit.~~

~~(C) The air contaminant source does not require a permit under subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control).~~

(2) The ~~secretary~~ Secretary shall not issue a permit renewal unless the applicant first demonstrates that the emissions from the subject source meet all applicable emission control requirements or are subject to, and in compliance with, an appropriate schedule of compliance.

* * *

~~(h)(1) The secretary may issue~~ Secretary may adopt, as a rule under 3 V.S.A. chapter 25, a general operating permits permit covering numerous similar sources. ~~A general permit shall be adopted as an administrative rule under the provisions of 3 V.S.A. chapter 25. Each rule creating a general permit shall include provisions that require public notice of the fact that specified emitters have applied for general permits.~~

~~(2) Each rule creating a general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive a general permit, and a process by which aggrieved persons can obtain an opportunity to be heard on a request that the general permit be issued only subject to specific conditions to limit or mitigate the effects of the emissions in question. Based on information presented at such a hearing, an applicant may be required to obtain a permit other than a general permit, or may obtain a general permit subject to specified conditions.~~

* * *

Sec. 8. 10 V.S.A. § 754 is amended to read:

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM
MUNICIPAL REGULATION

* * *

(b) Required rulemaking content. The rules shall:

(1) set forth the requirements necessary to ensure uses exempt from municipal regulation are regulated by the State in order to comply with the regulatory obligations set forth under the National Flood Insurance Program.

(2) be designed to ensure that the State and municipalities meet community eligibility requirements for the National Flood Insurance Program.

~~(3) require that the Secretary provide notice to a municipality in which a use exempt from municipal regulation will occur of an application received under this section and a copy of the permit issued, unless a use is authorized to occur without notification of or reporting to the Secretary. [Repealed.]~~

* * *

(f) Permit requirement. ~~Beginning March 1, 2015, no person~~ A person shall not commence or conduct a use exempt from municipal regulation in a flood hazard area or river corridor in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and -operated institution or facility located within a flood hazard area or river corridor, without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 9. 10 V.S.A. § 914 is amended to read:

§ 914. WETLANDS DETERMINATIONS

* * *

~~(c) The Secretary shall provide by certified mail written notice of a proposed determination to the owner of each parcel of land within or adjacent to the wetland or buffer zone in question; publish notice on the Agency website; and provide an electronic notice to persons who have requested to be on a list of interested persons. Such notice shall include the date of the Secretary's proposed determination and shall provide no fewer than 30 days~~

~~from the date of the Secretary's proposed determination within which to file written comments or to request that the Secretary hold a public meeting on the proposed determination. The provisions of chapter 170 of this title shall apply to issuance of determinations under this section.~~

~~(d) The Secretary shall provide, in person, by mail, or by electronic notice, a written copy of a wetland determination issued under this section to the owner of each affected parcel of land and to the requesting petitioner. [Repealed.]~~

* * *

Sec. 10. 10 V.S.A. § 1022 is amended to read:

§ 1022. APPLICATION FOR ALTERATION

A person proposing to change, alter, or modify the course, current, or cross section of a watercourse shall apply in writing to the ~~secretary~~ Secretary for a permit to do so. The application shall describe the location and purpose of the proposed change and shall be accompanied by the maps and plans and other information the ~~secretary~~ Secretary shall direct. ~~A conformed copy shall be simultaneously filed with the town clerk of the town in which the proposed alteration is located, and mailed to each owner of property that abuts or is opposite the land where the alteration is to take place. The town clerk shall forthwith post the copy in the town office. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title and the requirements of this subchapter.~~

Sec. 11. 10 V.S.A. § 1023 is amended to read:

§ 1023. INVESTIGATION, PERMIT

* * *

~~(b) The reasons for the action taken under this section shall be set forth in writing to the applicant. Notice of the action of the Secretary shall also be sent to the selectboard of the town in which the proposed change is located, and to each owner of property which abuts or is opposite the land where the alteration is to take place.~~

* * *

Sec. 12. 10 V.S.A. § 1083 is amended to read:

§ 1083. APPLICATION

(a) Any person who proposes to undertake an action subject to regulation pursuant to section 1082 of this title shall apply in writing to the ~~state~~ State agency having jurisdiction, ~~and shall give notice thereof to the governing body~~

~~of the municipality or municipalities in which the dam or any part of the dam is to be located.~~ The application shall set forth:

* * *

Sec. 13. 10 V.S.A. § 1085 is amended to read:

§ 1085. NOTICE OF APPLICATION

Upon receipt of the application required by section 1082 of this title, the ~~state~~ State agency having jurisdiction shall give notice to the legislative body of each municipality in which the dam is allocated and to all persons interested.

~~(1) For any project subject to its jurisdiction under this chapter, on the petition of 25 or more persons the department shall, or on its own motion it may, hold a public information meeting in a municipality in the vicinity of the proposed project to hear comments on whether the proposed project serves the public good and provides adequately for the public safety. Public notice shall be given by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper at least 10 days before the meeting. The Department shall proceed in accordance with chapter 170 of this title.~~

(2) For any project subject to its jurisdiction under this chapter, the public service board shall hold a hearing on the application. The purpose of the hearing shall be to determine whether the project serves the public good as defined in section 1086 of this title and provides adequately for the public safety. The hearing shall be held in a municipality in the vicinity of the proposed project and may be consolidated with other hearings, including hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be given at least 10 days before the hearing to interested persons by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper.

Sec. 14. 10 V.S.A. § 1100 is amended to read

§ 1100. FEDERAL COOPERATION

* * *

~~(4) Where cultivated agricultural lands in excess of one hundred acres are to be taken for the purposes of a flood control project, or the recreational development of the state State or the economy of the river basin involved may be affected thereby, the department, of its own motion, may, and upon petition to it by interested parties, shall, appoint a time and place for hearing in the vicinity of the flood control project, hold a public information meeting after giving notice to interested parties as it directs~~ Department shall provide notice,

an opportunity to submit comments, and an opportunity to request a public meeting in accordance with section 7713 (Type 2 Procedures) of this title. Upon hearing, the department The Department shall determine the effect the flood control project will have upon agricultural land uses or recreational values in this state State, or upon the economy of the river basin involved, and report its findings and recommendations to the proper federal agency or authority having the flood control project in charge for its consideration and recognition. The Department shall post its findings and recommendations as a final decision in accordance with chapter 170 of this title.

Sec. 15. 10 V.S.A. § 1252 is amended to read:

§ 1252. CLASSIFICATION OF WATERS; MIXING ZONES

* * *

(d) Prior to the initial authorization of a new waste management zone, except those created pursuant to subsection (b) of this section, or prior to the expansion of the size of an existing zone created under this section, in order to accommodate an increased discharge, the Secretary shall:

(1) Prepare a draft permit which includes a description of the proposed waste management zone ~~prior to publishing the notice required by subdivision (2) of this subsection~~ and proceed in accordance with subsections 7713(c), (d), and (e) of this title.

(2) ~~Publish notice in both a local newspaper generally circulating in the area where the affected waters are located and a separate newspaper generally circulating throughout the State not less than 21 days prior to the public hearing required by this subsection. The notice shall describe the draft permit and proposed waste management zone and provide for the opportunity to file written comment for not less than seven days following the hearing.~~

(3) ~~Forward copies of the notice, the draft permit and the description of the proposed waste management zone to any municipality and regional planning commission within the area where the affected waters are located not less than 21 days prior to the hearing. The notice, the draft permit and the description of the waste management zone shall also be provided to any person upon request.~~

(4) ~~Hold a public hearing convenient to the waters affected.~~

(5) Give due consideration to the cumulative impact of overlapping waste management zones.

(6)(3) Determine that the creation or expansion of such a waste management zone is in the public interest after giving due consideration to the factors specified in subdivisions 1253(e)(1) through (10) of this title.

~~(7)(4)~~ Determine that the creation or expansion of such a zone will not:

* * *

~~(8)(5)~~ Provide a written explanation with respect to subdivisions ~~(5)(2)~~ through ~~(7)(4)~~ of this subsection.

* * *

Sec. 16. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

* * *

~~(b) Except for applications for permission to discharge under the terms of a previously issued general permit, the secretary shall provide for notice of each application to the public and any appropriate officials of another state and the federal government including the administrator of the United States Environmental Protection Agency, and shall provide an opportunity for written comments or a public hearing or both on the application before making a final ruling on the application. Prior to issuing a general permit, the secretary shall give notice as provided in this subsection and provide for written comments or a public hearing or both as provided in this subsection. For applications for permission to discharge under the terms of a previously issued general permit, the applicant shall provide notice, on a form provided by the secretary, to the municipal clerk of the municipality in which the discharge is located at the time the application is filed with the secretary, and the secretary shall provide an opportunity for written comment, regarding whether the application complies with the terms and conditions of the general permit, for ten days following receipt of the application. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The secretary Secretary may require any applicant to submit any additional information, which that the secretary Secretary considers necessary and may refuse to grant a permit, or permission to discharge under the terms of a general permit, until the information is furnished and evaluated.~~

* * *

Sec. 17. 10 V.S.A. § 1265 is amended to read:

§ 1265. TEMPORARY POLLUTION PERMITS

* * *

~~(b) The Secretary shall give notice of each application to the public and any appropriate officials of another state and the federal government including the administrator of the U.S. Environmental Protection Agency, and shall provide an opportunity for written comments or a public hearing, or, both on the~~

~~application before ruling on the application.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit any additional information ~~which he or she~~ that the Secretary considers necessary, and may refuse to grant a permit until the information is furnished and evaluated.

* * *

Sec. 18. 10 V.S.A. § 1268 is amended to read:

§ 1268. EMERGENCY PERMITS

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, ~~he or she~~ the holder may apply in the manner specified by the ~~secretary~~ Secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. ~~The permit may be issued without prior public notice if the nature of the emergency will not provide sufficient time to give notice; provided that the secretary shall give public notice as soon as possible but in any event no later than five days after the effective date of the emergency pollution permit.~~ The Secretary shall proceed in accordance with chapter 170 of this title. No emergency pollution permit shall be issued unless the applicant certifies and the ~~secretary~~ Secretary finds that:

* * *

Sec. 19. 10 V.S.A. § 1418 is amended to read:

§ 1418. GROUNDWATER WITHDRAWAL PERMIT

* * *

~~(c)(1) At least 30 days before filing an application for a permit under this section, the applicant shall hold an informational hearing in the municipality in which the withdrawal is proposed in order to describe the proposed project and to hear comments regarding the proposed project. Public notice shall be given by posting in the municipal offices of the town in which the withdrawal is proposed and by publishing in a local newspaper at least 10 days before the meeting.~~

~~(2) On or before the date of filing with the secretary of natural resources an application for a permit under this section, an applicant for a withdrawal under this section shall notify:~~

~~(A) the clerk, legislative body, and any conservation commission in the municipality in which the proposed withdrawal is located;~~

~~(B) adjoining municipalities;~~

~~(C) the regional planning commission in the region where the proposed withdrawal is located;~~

~~(D) all landowners and mobile home park residents within the zone of influence of a groundwater withdrawal or within one quarter mile downstream from a withdrawal from a spring. Notice to the officers of a condominium association shall be deemed sufficient under this subdivision for notice to residents of a condominium; and~~

~~(E) any public water systems permitted by the agency of natural resources in the municipality where the proposed withdrawal is located.~~

~~(3) The applicant shall publish notice of the application in a newspaper of general circulation in the area in which the withdrawal is proposed and shall post a copy of the notice in the municipal clerk's office in the municipality in which the withdrawal is located.~~

~~(4) On its own motion or on receipt of a written request, the agency shall hold a public meeting in the municipality in which the withdrawal is proposed in order to describe the proposed project and to hear comments regarding the proposed project. Opportunity shall be given all participants at a public meeting to ask questions and comment on all issues involved. The agency shall prepare a responsiveness summary for each public meeting conducted. Public notice shall be given by posting in the municipal offices of the town in which the withdrawal is proposed and by publishing in a local newspaper at least 10 days before the meeting.~~

~~(5) No defect in the form or substance of any notice requirements in subdivision (1), (2), (3), or (4) of this subsection shall invalidate an application for a permit under this section provided that reasonable efforts are made to provide adequate posting and notice. An application for a permit under this section shall be invalid when a defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental division, the applicant may reapply and provide new posting and notice. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 20. 10 V.S.A. § 1443 is amended to read:

§ 1443. INDIVIDUAL PERMIT REQUIREMENTS FOR IMPERVIOUS SURFACE OR CLEARED AREA IN A PROTECTED SHORELAND AREA

* * *

(c) Permit process.

~~(1) A person applying for a permit shall do so on a form provided by the Secretary. The application shall be posted on the Agency's website.~~

~~(2) A person applying for a permit shall provide notice, on a form provided by the Secretary, to the municipal clerk of the municipality in which the construction of impervious surface or creation of cleared area is located at the time the application is filed with the Secretary.~~

~~(3) The Secretary shall provide an opportunity for written comment regarding whether an application complies with the requirements of this chapter or any rule adopted by the Secretary, for 30 days following receipt of the application. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 21. 10 V.S.A. § 1455 is amended to read:

§ 1455. AQUATIC NUISANCE CONTROL PERMIT

* * *

~~(h) The Secretary shall adopt procedures under 3 V.S.A. chapter 25 which will provide an opportunity for public review and comment on permit applications. The procedures shall classify permit applications by degree of environmental risk involved and establish appropriate opportunities for public notice and comment for each class. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 22. 10 V.S.A. § 1456 is amended to read:

§ 1456. AQUATIC SPECIES RAPID RESPONSE GENERAL PERMITS

* * *

~~(c) The secretary shall provide notice of the application to the municipal clerk of the municipality or municipalities in which the proposed control activity will be conducted at the time the request for authorization is filed with the secretary. The secretary shall provide an opportunity for written comment regarding whether the request complies with the terms and conditions of the aquatic species rapid response general permit for 10 days following receipt of the request for authorization. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 23. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF
REVOCATION

* * *

(c) ~~Notice and hearing.~~ Permit process; additional information.

(1) ~~The Secretary shall give notice of each application for a new source for a community or nontransient, noncommunity water system to the public by publication in a newspaper of general circulation for the area containing the proposed system and by causing a notice to be posted in the clerk's office for the municipality containing the proposed system or source. The Secretary shall also give notice to appropriate State agencies. The applicant shall notify all adjoining landowners. The Secretary shall provide an opportunity for written comment or a public hearing, or both, on the application before ruling on the application. When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit additional information which that the Secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The Secretary may also consult with the Commissioner of Health, as necessary, in making decisions regarding health issues raised by the application. The Commissioner's response, if any, shall be part of the public record for the application.~~

(2) ~~The Secretary shall give notice to the public of each application by a public community system for the addition of a new type of disinfectant by publication in a newspaper of general circulation for the area containing the proposed system and by causing a notice to be posted in the clerk's office for the municipality in which the system is located. The Secretary shall also give notice to appropriate State agencies. The Secretary shall provide an opportunity for written comment and shall, upon request, provide for a public hearing on the application before ruling on the application. The Secretary may require the applicant to submit additional information which the Secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The Secretary may also consult with the Commissioner of Health, as necessary, in making decisions regarding health issues raised by the application. The Commissioner's response, if any, shall be part of the public record for the application.~~

* * *

Sec. 24. 10 V.S.A. § 1679 is amended to read:

§ 1679. PUBLIC WATER SOURCE PROTECTION AREAS

* * *

~~(d) The Secretary shall give notice of each proposed public water source protection area to the public by publication in a newspaper of general circulation for the area containing the proposed protection area and by causing a notice to be posted in the clerk's office for the municipality containing the proposed area. The Secretary shall also give notice to adjoining landowners and all appropriate officials of municipalities and State agencies. The Secretary shall provide an opportunity for written comment or a public hearing, or both, on the proposed area before designating the area. If the area is to be classified under chapter 48 of this title, the classification procedures shall satisfy the provisions of this subsection. When the Secretary proposes to designate a public water source protection area under the rules adopted pursuant to subsection (a) of this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 25. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

* * *

~~(f) On or before the date of filing any certification or permit application for a facility, the applicant shall send notice and a copy of the application to the municipality where the facility is proposed to be or is located, and any adjacent Vermont municipality if the land is located on a boundary. The applicant shall furnish to the certifying or permitting authority the names of those furnished notice of application. Notwithstanding the provisions of subsection (c) of this section, the Secretary shall not issue a certification for a new facility or a recertification for an existing facility unless the town, city, or village in which the facility is located has been notified. When an application for a certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

(g)(1) Notwithstanding any ~~other~~ contrary provision of this section, the Secretary may authorize the land disposal or management of sludge or septage by an applicant at any certified site or facility with available capacity, provided the Secretary finds:

* * *

~~(2) The Secretary shall, following his or her issuance of approval of emergency sludge or septage disposal under this subsection, provide public~~

~~notice of that action.~~ Issuance of an approval under this subsection shall comply with section 7716 of this title.

* * *

Sec. 26. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

* * *

~~(d) On or before the date of filing any certification application for a facility, the applicant shall send notice and a copy of the application to the municipality where the facility is proposed to be or is located and any adjacent Vermont municipality if the facility is located on a boundary. The applicant shall furnish the Secretary the names of those noticed of the application. When an application for a certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 27. 10 V.S.A. § 6605d is amended to read:

§ 6605d. PROVISIONAL CERTIFICATION

* * *

~~(e) The Secretary shall provide notice of the opportunity for public comment on an application for provisional certification, any proposed findings with respect to the application, and the time and place of a public informational meeting.~~

~~(1) The notice shall be published at least 14 days prior to the meeting and the public comment period shall end no sooner than 14 days after the meeting.~~

~~(2) In addition to the publication of notice in newspapers of general circulation in the area where the facility is located, the following persons shall be notified:~~

~~(A) The legislative body and the planning commission of the municipality in which the facility is located and the legislative bodies and planning commissions of all municipalities that will be served by the facility.~~

~~(B) All landowners whose property adjoins the facility.~~

~~(C) Any other state agency or subdivision of the state that has issued or may be required to issue a permit for the facility.~~

~~(D) The regional planning commission and any solid waste district serving the town, city or gore where the facility is located.~~

~~(E) Community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned. When an application for a provisional certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

~~(g) A determination of the Secretary under this section may be reviewed under subchapter 5 of chapter 151 of this title. [Repealed.]~~

(h) If the Secretary finds that emergency action is required for the disposal of solid waste in Vermont facilities, the Secretary may issue an emergency provisional certification. ~~Notice~~ Notwithstanding any contrary requirement of chapter 170 of this title, notice of a proposed emergency provisional certification shall be published at least seven calendar days prior to the meeting and the public comment period shall end no sooner than three calendar days after the meeting. An emergency provisional certification granted in accordance with this subsection shall be issued no more than once and shall terminate 60 days after issuance, unless the Secretary reissues the certification under this section as a provisional certification. Except as otherwise required by this subsection, an emergency provisional certification shall be subject to requirements that apply to provisional certification.

* * *

~~(j) The Secretary may not issue a provisional certification:~~

~~(1) to the owner or operator of a solid waste management facility for which a permit has been denied under chapter 151 of this title prior to January 1, 1990, until the owner or operator is subsequently issued a permit under chapter 151 of this title; or~~

~~(2) to the owner or operator of a solid waste management facility that is subject to an appeal filed prior to January 1, 1990, so long as the appeal is still pending. [Repealed.]~~

Sec. 28. 10 V.S.A. § 6648 is amended to read:

§ 6648. CORRECTIVE ACTION PLAN

* * *

~~(e) Prior to approval of the corrective action plan, the Secretary shall provide notice to the public by publishing notice in a local newspaper of general circulation where the property is located and providing written notice to the clerk for the municipality in which the property is located. The clerk shall post the notice in a location conspicuous to the public. The Secretary~~

~~shall review any public comment submitted prior to approval of the corrective action plan. The notice shall include all the following:~~

~~(1) a description of any proposed abatement, investigation, remediation, removal, and monitoring activities;~~

~~(2) a statement that the Secretary is considering approving a corrective action plan that provides for those activities;~~

~~(3) a request for public comment on the proposed activities to be submitted within 15 days after publication;~~

~~(4) the name, telephone number, and address of an agency official who is able to answer questions and accept comments on the matter. Before approving a corrective action plan under this subchapter, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 29. 10 V.S.A. § 7156 is amended to read:

§ 7156. AGENCY RESPONSIBILITIES

* * *

~~(c) Public input. The Agency shall establish a process under which a collection plan for a mercury-containing lamp is, prior to plan approval or amendment, available for public review and comment for 30 days. In establishing such a process, the Agency shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts. Procedure. Before approving a collection plan under this chapter, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 30. 10 V.S.A. § 7554 is amended to read:

§ 7554. MANUFACTURER OPT-OUT INDIVIDUAL PLAN

* * *

~~(d) Public review and consultation. Prior to approval of a plan under this section, the Agency shall make the manufacturer's proposed plan available for public review and comment for at least 30 days. Before approving an individual plan under this section, the Secretary shall proceed in accordance with chapter 170 of this title.~~

* * *

Sec. 31. 10 V.S.A. § 7586 is amended to read:

§ 7586. AGENCY RESPONSIBILITIES; APPROVAL OF PLANS

(a) Approval of plan. Within 90 days after receipt of a proposed primary battery stewardship plan, not including the time required for public comment under ~~subsection (e) of this section~~ chapter 170 of this title, the Secretary shall determine whether the plan complies with the requirements of section 7584 of this title. If the Secretary determines that a plan complies with the requirements of section 7584 of this title, the Secretary shall notify the applicant of the plan approval in writing. If the Secretary rejects a primary battery stewardship plan, the Secretary shall notify the applicant in writing of the reasons for rejecting the plan. An applicant whose plan is rejected by the Secretary shall submit a revised plan to the Secretary within 45 days of receiving notice of rejection. A primary battery stewardship plan that is not approved or rejected by the Secretary within 90 days, not including the time required for public comment under ~~subsection (e) of this section~~ chapter 170 of this title, of submission by a producer shall be deemed approved.

* * *

~~(c) Public notice review. The Secretary shall post all proposed primary battery stewardship plans and all proposed amendments to a primary battery stewardship plan on the Agency's website for 30 days from the date the application for a plan or a plan amendment is deemed complete by the Secretary, subject to the confidentiality provisions of section 7592 of this title. When the Secretary receives a request to approve or amend a primary battery stewardship plan under this subchapter, the Secretary shall proceed in accordance with chapter 170 of this title.~~

~~(d) Public input. The Secretary shall establish a process under which a primary battery stewardship plan, prior to plan approval or amendment, is available for public review and comment. [Repealed.]~~

* * *

Sec. 32. 29 V.S.A. § 405 is amended to read:

§ 405. INVESTIGATION AND DETERMINATION OF PUBLIC GOOD

~~(a) Written notice of each application shall be given by the department to abutting property owners, the selectmen of the town in which the proposed encroachment is located, and other persons as it considers appropriate. The notice shall provide a brief description of the proposed encroachment and the address where complete information about it may be obtained. Notice shall provide not less than 10 days for the filing of written comments by any interested persons. Upon receipt within the notice period of a request from a municipality, or 25 or more persons in interest, the department shall hold a~~

~~public information meeting. Notice of the meeting shall be provided to anyone required to receive notice by this subsection, to all persons who have filed written comments within the notice period, and to other persons as the department considers appropriate. When an application is filed under this chapter, the Department shall proceed in accordance with 10 V.S.A. chapter 170.~~

* * *

~~(c) The department shall give written notice to the applicant, the municipality in which the encroachment is located, the abutting property owners and other persons considered appropriate, of the action taken in approving a permit or denying the application. Notice shall be given within five days of taking action. The notice shall explain the reasons for the action and shall include findings as to the effect of the encroachment on each element of the public good set forth in subsection (b) of this section. The action of approving or denying an application shall not be effective until 10 days after the department's Department's notice of action.~~

* * * Act 250 Jurisdictional Determinations * * *

Sec. 33. 10 V.S.A. § 6007 is amended to read:

§ 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL DETERMINATION

* * *

(c) With respect to the partition or division of land, or with respect to an activity which might or might not constitute development, any person may submit to the district coordinator an “Act 250 Disclosure Statement” and other information required by the rules of the Board, and may request a jurisdictional opinion from the district coordinator concerning the applicability of this chapter. If a requestor wishes a final determination to be rendered on the question, the district coordinator, at the expense of the requestor and in accordance with rules of the Board, shall publish notice of the issuance of the opinion in a local newspaper generally circulating in the area where the land which is the subject of the opinion is located, and shall serve the opinion on all persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In addition, the requestor who is seeking a final determination shall consult with the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list of persons who shall be notified by the district coordinator because they are adjoining property owners or other persons who would be likely to be able to demonstrate a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission.

~~(d) A person who seeks review of a jurisdictional opinion issued by a district coordinator may request consideration by the Board of the issues addressed in the opinion.~~

~~(1) If the opinion was served on the person when issued, the person's request under this subsection shall be submitted to the Board within 30 days of the opinion's issuance.~~

~~(2) If the opinion was not served on the person when issued, the request shall be submitted to the Board:~~

~~(A) within 30 days from the date on which the opinion was served on the requestor; or~~

~~(B) at any time, if the opinion is never served on the requestor.~~

~~(3) The Board shall give notice of the request.~~

~~(A) The Board shall serve the notice on all persons listed in subdivisions 6085(e)(1)(A)-(D) of this title and post the notice on its website.~~

~~(B) If the request pertains to a jurisdictional opinion for which a final determination was requested under subsection (c) of this section, the Board shall:~~

~~(i) serve the notice on all persons on the approved subdivision 6085(e)(1)(E) list; and~~

~~(ii) publish at the expense of the requestor the notice in a local newspaper having general circulation in the area where the land which is the subject of the request is located.~~

~~(4) An act or decision of the Board under this subsection may be appealed to the Environmental Division pursuant to chapter 220 of this title. [Repealed.]~~

Sec. 34. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

Appeals of any act or decision of a District Commission under this chapter or ~~the Natural Resources Board~~ a district coordinator under subsection ~~6007(d)~~ 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair of a District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the District Commission.

Sec. 35. 10 V.S.A § 8503(b) is amended to read:

(b) This chapter shall govern:

(1) all appeals from an act or decision of a District Commission under chapter 151 of this title, excluding appeals of application fee refund requests;

(2) appeals from an act or decision of ~~the Natural Resources Board~~ a district coordinator under subsection ~~6007(d)~~ 6007(c) of this title;

(3) appeals from findings of fact and conclusions of law issued by the Natural Resources Board in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793c(f).

Sec. 36. 10 V.S.A. § 8504(a) is amended to read:

(a) Act 250 and Agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, ~~the Natural Resources Board, or~~ a District Commission, or a district coordinator under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

Sec. 37. 10 V.S.A. § 8504(e) is amended to read:

(e) Act 250 jurisdictional determinations by ~~the Natural Resources Board~~ a district coordinator.

(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title ~~and~~, to each person on an approved subdivision 6085(c)(1)(E) list, and to the Natural Resources Board.

(2) Failure to appeal within the time required under subsection (a) of this section shall render the decision of the ~~Board~~ district coordinator under subsection ~~6007(d)~~ 6007(c) of this title the final determination regarding jurisdiction under chapter 151 of this title unless the underlying jurisdictional opinion ~~issued by the district coordinator~~ was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection 6007(c) of this title.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

This act shall take effect on January 1, 2018, except that:

(1) Sec. 4 (bulletin; revision) and this section shall take effect on passage and Secs. 1 (standard procedures) and 3 (environmental notice bulletin) shall apply to the implementation of Sec. 4.

(2) On passage, the Secretary of Natural Resources shall have authority to adopt rules in accordance with Sec. 1.

(Committee vote: 5-0-0)

NEW BUSINESS

Second Reading

Favorable with Recommendation of Amendment

S. 214.

An act relating to transfer of Exchange plan administration to health insurance carriers.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

* * *

(5) "Qualified employer":

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(ii) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State;

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5);

~~(C) on and after January 1, 2018, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size. [Repealed.]~~

* * *

Sec. 2. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

* * *

(b)(1) ~~From~~ On and after January 1, 2016 ~~until January 1, 2017~~, a qualified employer shall be an entity which employed an average of not more than 100 employees on working days during the preceding calendar year and the term “qualified employer” includes self-employed persons to the extent permitted under the Affordable Care Act. The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2).

(2) An employer with 100 or fewer employees that offers a qualified health benefit plan to its employees through the Vermont Health Benefit Exchange may continue to participate in the Exchange even if the employer’s size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont Health Benefit Exchange available to its employees.

~~(c) On and after January 1, 2018, a qualified employer shall be an employer of any size which elects to make all of its full-time employees eligible for one or more qualified health plans offered in the Vermont Health Benefit Exchange, and the term “qualified employer” includes self-employed persons. A full-time employee shall be an employee who works more than 30 hours per week. [Repealed.]~~

And that after passage the title of the bill be amended to read: “An act relating to large group insurance”

(Committee vote: 5-0-2)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 40.

An act relating to the creation of a Vulnerable Adult Fatality Review Team.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Health & Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 69, subchapter 3 is added to read:

Subchapter 3. Vermont Vulnerable Adult Fatality Review Team

§ 6961. VERMONT VULNERABLE ADULT FATALITY REVIEW TEAM ESTABLISHED

(a) Creation. There is created a Vermont Vulnerable Adult Fatality Review Team (Team) within the Office of the Attorney General for the following purposes:

(1) to examine select cases of abuse- and neglect-related fatalities and preventable deaths of vulnerable adults in Vermont;

(2) to identify system gaps and risk factors associated with those deaths;

(3) to educate the public, service providers, and policymakers about abuse- and neglect-related fatalities and preventable deaths of vulnerable adults and strategies for intervention; and

(4) to recommend legislation, rules, policies, procedures, practices, training, and coordination of services to promote interagency collaboration and to improve systemic responses to the abuse and neglect of vulnerable adults.

(b)(1) Membership. The Team shall comprise the following members:

(A) the Attorney General or designee;

(B) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(C) the Commissioner of Public Safety or designee;

(D) the Chief Medical Examiner or designee;

(E) the Assistant Director for Adult Protective Services in the Department of Disabilities, Aging, and Independent Living or designee;

(F) the Adult Services Division Director in the Department of Disabilities, Aging, and Independent Living or designee;

(G) the Director of the Vermont Office of Emergency Medical Services and Injury Prevention or designee;

(H) the State Long-Term Care Ombudsman;

(I) a representative of victim services, appointed by the Executive Director of the Vermont Center for Crime Victim Services;

(J) the Director of the Center on Aging at the University of Vermont, or a gerontologist or geriatrician appointed by the Director;

(K) the Director of Disability Rights Vermont or designee;

(L) a hospital representative, appointed by the Vermont Association of Hospitals and Health Systems;

(M) a long-term care facility representative, appointed by the Vermont Health Care Association; and

(N) a home health agency representative, appointed jointly by the Vermont Association of Home Health Agencies and designated home health agencies that are not members of the Vermont Association of Home Health Agencies.

(2) The members of the Team specified in subdivision (1) of this subsection shall serve two-year terms. Any vacancy on the Team shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(c) Meetings.

(1) The Attorney General or designee shall call the first meeting of the Team to occur on or before September 30, 2016.

(2) The Team shall select a chair and vice chair from among its members at the first meeting, and annually thereafter. The Vice Chair shall also serve as Secretary.

(3) The Team shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter.

§ 6962. POWERS AND DUTIES; REPORTS

(a) The Team shall develop and implement policies to ensure that the deaths of vulnerable adults in Vermont are reviewed using uniform procedures established by the Team.

(b)(1) The Team may review the death of any person who meets the definition of a vulnerable adult in subdivision 6902(14) of this title and:

(A) who was the subject of an adult protective services investigation; or

(B) whose death came under the jurisdiction of, or was investigated by, the Office of the Chief Medical Examiner.

(2) The Team shall not initiate the review of the death of a vulnerable adult until the conclusion of any adult protective services or law enforcement investigation, criminal prosecution, or civil action.

(3) The review shall not impose unreasonable burdens on health care providers for production of information, records, or other materials. The Team shall first seek to obtain information, records, and other materials from State agencies or that were generated in the course of an investigation by the Adult Protective Services Division, the Office of the Chief Medical Examiner, or law enforcement.

(4) The Team shall establish criteria for selecting specific fatalities for review to ensure the analysis of fatalities occurring in both institutional and home- and community-based settings.

(c)(1) Beginning in 2018, the Team shall submit an annual report to the General Assembly on or before January 15.

(2) The annual report shall:

(A) summarize the Team's activities for the preceding year;

(B) identify any changes to the Team's uniform procedures;

(C) identify system gaps and risk factors associated with deaths reviewed by the Team;

(D) recommend changes in statute, rule, policy, procedure, practice, training, or coordination of services that would decrease the number of preventable deaths in Vermont's vulnerable adult population; and

(E) assess the effectiveness of the Team's activities.

§ 6963. CONFIDENTIALITY

(a) The Team's proceedings and records are confidential and exempt from public inspection and copying under the Public Records Act, and shall not be released. Such information shall not be subject to subpoena or discovery or be admissible in any civil or criminal proceedings; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceedings anything that is available

from another source and entirely independent of the Team's review. The Team shall not use information, records, or data that it obtains or generates for purposes other than those described in this subchapter.

(b) The Team's conclusions and recommendations may be disclosed, but shall not identify or allow for the identification of any person or entity.

(c) Meetings of the Team are confidential and shall be exempt from the Vermont Open Meeting Law. The Secretary of the Team shall maintain any records, including meeting minutes, generated by the team.

(d) Team members and persons invited to assist the Team shall not reveal information, records, discussions, and opinions disclosed in connection with the Team's work, and shall execute a sworn statement to honor the confidentiality of such information, records, discussions, and opinions. The Chair of the Team shall be responsible for obtaining and maintaining confidentiality agreements.

§ 6964. ACCESS TO INFORMATION AND RECORDS

(a) In any case subject to review by the Team, and upon written request by the Chair of the Team, any person who possesses information or records that are necessary and relevant to Team review shall as soon as practicable provide the Team with the information and records.

(b) The Team shall not have access to the proceedings, reports, and records of peer review committees as defined in 26 V.S.A. § 1441.

(c) Persons disclosing or providing information or records upon the Team's request are not criminally or civilly liable for disclosing or providing information or records in compliance with this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

S. 75.

An act relating to food and lodging establishments.

Reported favorably with recommendation of amendment by Senator Collamore for the Committee on Health & Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 85 is amended to read:

CHAPTER 85. FOOD AND LODGING ESTABLISHMENTS

Subchapter 1. Food and Lodging Establishments Generally

§ 4301. FOOD ESTABLISHMENTS; DEFINITIONS

(a) As used in this subchapter:

(1) ~~“Food” shall include all articles used for food, drink, confectionery, or condiment, by man, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof. “Bakery” means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of producing for sale bread, cakes, pies, or other food products made either wholly or partially with flour.~~

(2) “Children’s camp” means any seasonal establishment operated not more than 90 days per year and offering a camping program that provides food, lodging, or both to vacationing youth or family groups.

(3) “Commissioner” means the Commissioner of Health.

(4) “Department” means the Department of Health.

(5) ~~“Establishment” shall include all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing in any manner, food for sale means food manufacturing establishments, food service establishments, lodging establishments, seafood vending facilities, and shellfish reshippers and repackers.~~

(6) “Food” means articles of food, drink, confectionery, or condiment for human consumption, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.

(7) “Food manufacturing establishment” means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing food for sale. A food manufacturing establishment shall include food processors, bakeries, distributors, and warehouses.

(8) “Food service establishment” means entities that prepare, serve, and sell food to the public, including restaurants, temporary food vendors, caterers, mobile food units, and limited operations as defined in rule.

(9) “Lodging establishment” means any place where overnight accommodations are regularly provided to the transient, traveling, or vacationing public, including hotels, motels, inns, bed and breakfasts, and children’s camps.

(10) “Salvage food” means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of an accident, fire, flood, or other cause that prevents the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.

(11) “Salvage food facility” means any food vendor for which salvage food comprises 50 percent or more of gross sales.

(12) “Seafood vending facility” means a store, motor vehicle, retail stand, or similar place from which a person sells seafood for human consumption.

(13) “Shellfish reshipper and repacker” means an establishment engaging in interstate commerce of molluskan shellfish.

(b) Nothing in this ~~subchapter~~ chapter shall be construed to modify or affect laws or ~~regulations~~ rules of the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

§ 4302. GENERAL REQUIREMENTS

(a) A person shall not manufacture, prepare, pack, can, bottle, keep, store, handle, serve, or distribute in any manner food for the purpose of sale, in an unclean, unsanitary, or unhealthful establishment or under unclean, unsanitary, or unhealthful conditions.

(b) A person shall not engage in the business of conducting a lodging establishment under unclean, unsanitary, or unhealthful conditions.

§ 4303. ~~SPECIAL PROVISIONS~~ RULEMAKING

The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish minimum standards for the safe and sanitary operation of food and lodging establishments and their administration and enforcement. ~~Subject to the provisions of this subchapter,~~ The rules shall require that an establishment shall be constructed, maintained, and operated with strict regard for the health of the employees and ~~for the purity and wholesomeness of the food therein produced, kept, stored, handled, served, or distributed, so far as may be reasonable and necessary in the public interest and consistent with the character of the establishment,~~ the public pursuant to the following general requirements:

(1) The entire establishment and its immediate appertaining premises, including the fixtures and furnishings, the machinery, apparatus, implements, utensils, receptacles, vehicles, and other devices used in the production, keeping, storing, handling, serving, or distributing of the food, or the materials

used in the food, shall be constructed, maintained, and operated in a clean, sanitary, and healthful manner;.

(2) The food and the materials used in the food shall be protected from any foreign or injurious contamination ~~which~~ that may render them unfit for human consumption;.

(3) The clothing, habits, and conduct of the employees shall be conducive to and promote cleanliness, sanitation, and healthfulness;.

(4) There shall be proper, suitable, and adequate toilets and lavatories, constructed, maintained, and operated in a clean, sanitary, and healthful manner;.

(5) There shall be proper, suitable, and adequate water supply, heating, light lighting, ventilation, drainage, sewage disposal, and plumbing.

(6) There shall be proper operation and maintenance of pools, recreation water facilities, spas, and related facilities within lodging establishments.

(7) The Commissioner may adopt any other minimum conditions that he or she deems necessary for the operation and maintenance of a food or lodging establishment in a safe and sanitary manner.

§ 4304. EMPLOYEES

(a) An employer shall not ~~require, permit, or suffer any~~ allow a person affected with any contagious, infectious, or other disease or physical ailment ~~which~~ that may render ~~such~~ employment detrimental to the public health to work in ~~such an~~ establishment, and a person so affected shall not work in ~~any such an~~ establishment subject to the provisions of this ~~subchapter~~ chapter.

(b) The Commissioner may require a person employed in an establishment subject to the provisions of this chapter to undergo medical testing or an examination necessary for the purpose of determining whether the person is affected by a contagious, infectious, or other disease or physical ailment that may render his or her employment detrimental to public health. The Commissioner may prohibit a person from working in an establishment pursuant to section 127 of this title if the person refuses to submit to medical testing or an examination.

* * *

§ 4305. ~~POWERS AND DUTIES OF STATE BOARD OF HEALTH~~

~~The board may require a person proposing to work or working in an establishment subject to the provisions of this subchapter, to undergo a physical examination for the purpose of ascertaining whether such person is affected with any contagious, infectious, or other disease or physical ailment,~~

~~which may render his or her employment detrimental to the public health. The examination shall be made at the time and pursuant to conditions which shall be prescribed by the board. A person who refuses to submit to such examination shall not work or be required, permitted, or suffered to work in any such establishment. [Repealed.]~~

§ 4306. INSPECTION

~~(a) It shall be the duty of the board Commissioner to enforce the provisions of this subchapter chapter and of 6 V.S.A. § 3312(d), and it he or she shall be permitted to inspect through its his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, an establishment and, an establishment's records, and a salvage food facility subject to the provisions of this subchapter chapter.~~

~~(b) Whenever an inspection demonstrates that the establishment or salvage food facility is not operated in accordance with the provision of this chapter, the officer, inspector, agent, or assistant shall notify the licensee of the conditions found and direct necessary changes.~~

§ 4307. HEARING; ORDERS

~~When it appears upon such an inspection reveals that any an establishment is being maintained or operated in violation of the provisions of this subchapter chapter or any related rules, the board Commissioner shall cause provide written notice thereof, together with an order commanding an both abatement of such the violation and a compliance with this subchapter chapter within a reasonable period of time to be fixed in the order, to be served by a proper officer upon the person violating such provisions. Under such any related rules and regulations as may be prescribed adopted by the board Commissioner, a person upon whom such the notice and order are served shall be given an opportunity to be heard and to show cause as to why such the order should be vacated or amended. When, upon such a hearing, it appears that the provisions of this subchapter chapter have not been violated, the board Commissioner shall immediately vacate such the order, but without prejudice. When, however, it appears that such the provisions have been violated and such the person fails to comply with an order issued by the board Commissioner under the provisions of this section, the board Commissioner shall, forthwith, certify the facts to the proper prosecuting office revoke, modify, suspend, or enforce a civil penalty.~~

§ 4308. REGULATIONS

~~The board shall make uniform and necessary rules and regulations for carrying out the provisions of this subchapter. [Repealed.]~~

§ 4309. PENALTY

~~A person who violates a provision of this subchapter chapter or 6 V.S.A. § 3312(d), for which no other penalty is provided, shall be fined not more than \$300.00 for the first offense and, for each subsequent offense, not more than \$500.00 shall be fined a civil penalty not to exceed \$10,000.00 for each violation. In the case of a continuing violation, each subsequent day in violation may be deemed a separate violation.~~

Subchapter 2. Licensing Food and Lodging Establishments

§ 4351. LICENSE FROM DEPARTMENT OF HEALTH

~~(a) A person shall not operate or maintain a hotel, inn, restaurant, tourist camp food manufacturing facility, retail food establishment, lodging establishment, seafood vending facility, or any other place in which food is prepared and served, or lodgings provided or furnished to the transient traveling or vacationing public, or a seafood vending facility, unless he or she shall have first obtained and holds obtains and holds from the department Commissioner a license authorizing such operation. The secretary may prescribe rules or conditions within which he or she may issue a temporary license for a period not to exceed 60 days. The license shall state the rules or conditions under which it is issued. However, nothing herein shall apply to any person who occasionally prepares and serves meals or provides occasional lodgings. The license shall be displayed in such a way as to be easily viewed by the patrons. All licenses shall be displayed in a manner as to be easily viewed by the public.~~

~~(b) For purposes of this section, "seafood vending facility" includes a store, motor vehicle, stand, or similar place from which a person sells seafood for consumption at another location.~~

~~(1) A person shall not knowingly and willingly sell or offer for sale a bulk product manufactured by a bakery, regardless of whether the bakery is located in or outside the State, unless the operator of the bakery holds a valid license from the Commissioner.~~

~~(2) The Commissioner shall not grant a license to a bakery located outside the State unless:~~

~~(A) the person operating the bakery:~~

~~(i) has consented in writing to the Department's inspection and paid the required fee; or~~

~~(ii) has presented to the Department satisfactory evidence of inspection and approval from the proper authority in his or her state and paid the required fee; and~~

(B) inspection of the bakery confirms that it meets the laws and rules of this State.

(c) The Commissioner may issue a temporary license for no more than 90 days. The temporary license shall state the conditions under which it is issued.

(d) If the Commissioner does not renew a license, he or she shall provide written notice to the licensee. The notice shall specify any changes necessary to conform with State rules and shall state that if compliance is achieved within the time designated in the notice, the license shall be renewed. If the licensee fails to achieve compliance within the prescribed time, the licensee shall have an opportunity for a hearing.

(e) Any licensee or perspective licensee aggrieved by a decision or order of the Commissioner may appeal to the Board of Health within 30 days of that decision. Hearings by the Board under this section shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases. The Board shall consider the matter de novo and all persons, parties, and interests may appear and be heard. The Board shall issue an order within 30 days following the conclusion of the hearing.

(f) If a licensee fails to renew his or her license within 60 days of its expiration date, a licensee shall apply for a new license and meet all licensure requirements anew.

§ 4352. APPLICATION

A person desiring to operate ~~a place~~ an establishment in which food is prepared and served or in which lodging is offered to the public shall apply to the ~~board~~ Commissioner upon forms supplied by the ~~board~~ Department and shall pay a license fee as provided by section 4353 of this title. An application for licensure shall be submitted no fewer than 30 days prior to the opening of a food or lodging establishment. Upon receipt of such license fee and when satisfied that the premises are sanitary and healthful in accordance with the provisions of this chapter and related rules, the ~~board~~ Commissioner shall issue a license to the applicant with respect to the premises described therein.

§ 4353. FEES

(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable license fee category or any license exemption. The following fees shall be paid annually to the ~~Board~~ Department at the time of making the application according to the following schedules:

(1) Restaurant I—Seating capacity of 0 to 25; \$105.00

II—Seating capacity of 26 to 50; \$180.00

- III—Seating capacity of 51 to 100; \$300.00
- IV—Seating capacity of 101 to 200; \$385.00
- V—Seating capacity ~~of 201 to 599~~ over 200; \$450.00
- VI—Seating capacity ~~600 and over~~; \$1,000.00
- ~~VII~~—Home Caterer; \$155.00
- ~~VIII~~ VII—Commercial Caterer; \$260.00
- ~~IX~~ VIII—Limited Operations; \$140.00
- ~~X~~ IX—Fair Stand; \$125.00; if operating for four or more days per year; \$230.00

(2) Lodging establishments

- I—Lodging capacity of 1 to 10; \$130.00
- II—Lodging capacity of 11 to 20; \$185.00
- III—Lodging capacity of 21 to 50; \$250.00
- IV—Lodging capacity ~~of 51 to 200~~ over 50; \$390.00
- V—~~Lodging capacity of over 200; \$1,000.00~~ Children's camps; \$150.00

(3) Food ~~processor~~ manufacturing establishment—a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

(A) Food manufacturing establishments; nonbakeries

I—Gross receipts of \$10,001.00 to \$50,000.00; \$175.00

~~(B)~~ II—Gross receipts of over \$50,000.00; \$275.00

III —Gross receipts of \$10,000.00 or less are exempt pursuant to section 4358 of this title

(B) Food manufacturing establishments; bakeries

I—Home bakery; \$100.00

II—Small commercial; \$200.00

III—Large commercial; \$350.00

(4) Seafood vending facility—\$200.00, unless operating pursuant to another license issued by the Department of Health and generating less than

\$40,000.00 in seafood gross receipts annually. If generating more than \$40,000.00 in seafood gross receipts annually, the fee is to be paid regardless of whether the facility is operating pursuant to another license issued by the Department of Health.

(5) Shellfish reshippers and repackers—\$375.00.

(b) The Commissioner of ~~Health~~ will shall be the final authority on definition of categories contained herein.

(c) All fees received by the ~~Board~~ Department under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services.

§ 4354. TERM OF LICENSE

Licenses shall expire annually on a date established by the ~~department~~ Department and ~~shall be renewable~~ may be renewed upon the payment of a new license fee if the licensee is in good standing with the Department.

§ 4355. ~~REGULATIONS; REPORTS~~

~~(a) The board may prescribe such rules and regulations as may be necessary to ensure the operation in a sanitary and healthful manner of places in which food is prepared and served to the public or in which lodgings are provided. All reports which such board may require shall be on forms prescribed by it.~~

~~(b) The board shall not adopt any rule requiring food establishments that operate less than six months of the year and provide outdoor seating for no more than 16 people to provide toilet facilities to patrons, and any such rule or portion thereof now in effect is repealed. [Repealed.]~~

§ 4356. ~~INSPECTION, REVOCATION~~

~~The members of the board and any person in its employ and by its direction, at reasonable times, may enter any place operated under the provisions of sections 4351-4355 of this title, so far as may be necessary in the discharge of its duties. Whenever upon such inspection it is found that the premises are not being conducted in accordance with the provisions of the above named sections or the regulations adopted in accordance therewith, such board shall notify the licensee of the conditions found and direct such changes as are necessary. If such licensee shall fail within a reasonable time to comply with such orders, rules, or regulations adopted under the provisions of such sections, the board shall revoke the license. [Repealed.]~~

§ 4357. ~~PENALTY~~

~~A person who violates any provision of this subchapter shall be fined not more than \$500.00. [Repealed.]~~

§ 4358. EXEMPTIONS

~~(a) The provisions of this subchapter shall apply only to such those hotels, inns, restaurants, tourist camps, and other places as that solicit the patronage of the public by advertising by means of signs, notices, placards, radio, electronic communications, or printed announcements.~~

~~(b) The provisions of this subchapter shall not apply to an individual manufacturing and selling bakery products from his or her own home kitchen whose average gross retail sales do not exceed \$125.00 per week.~~

~~(c) Any food manufacturing establishment claiming a licensing exemption shall provide documentation as required by rule.~~

~~(d) The Commissioner shall not adopt a rule requiring food establishments that operate less than six months of the year and provide outdoor seating for less than 16 people at one time to provide toilet and hand washing facilities for patrons.~~

* * *

~~Subchapter 4. Bakeries~~

§ 4441. ~~BAKERY PRODUCTS; DEFINITION~~

~~For the purposes of this subchapter,~~

~~(1) The word “bakery” is defined as a building or part of a building wherein is carried on as a principal occupation the production of bread, cakes, pies, or other food products made either wholly or in part of flour and intended for sale.~~

~~(2) The word “person” shall extend and be applied to bodies corporate, and to partnerships and unincorporated associations. [Repealed.]~~

§ 4442. ~~RULES AND INSPECTION BY STATE BOARD OF HEALTH~~

~~The Board shall adopt and enforce rules as the public health may require in respect to the sanitary conditions of bakeries as defined herein. The Board is hereby authorized to inspect any such bakery at all reasonable times through its duly appointed officers, inspectors, agents, or assistants. [Repealed.]~~

§ 4443. ~~SLEEPING ROOMS SEPARATE~~

~~The sleeping rooms for persons employed in a bakery shall be separated from the rooms where food products or any ingredient thereof are manufactured or stored. [Repealed.]~~

§ 4444. LICENSE

~~(a) No person shall operate a bakery in this state without having obtained from the department a license describing the building used as a bakery, including the post office address of the same, which license shall be posted by the owner or operator of such bakery in a conspicuous place in the shop described in such license or in the sales room connected therewith.~~

~~(b) No person shall knowingly and willfully sell or offer for sale in this state any bulk product manufactured by a bakery, whether such a bakery is located within or without the state, unless the operator of such bakery shall hold a valid license, as prescribed, from the department, which license shall in no case be granted covering a bakery located outside the state unless the person operating such bakery shall have consented in writing to its inspection and paid the fee as herein provided, or shall have paid the fee and received a license after presenting to the department satisfactory evidence of inspection and approval from the proper authority of his or her own state, and such bakery shall have been found by the inspection to meet the requirements of the laws of this state and rules and regulations of the secretary relating thereto. [Repealed.]~~

§ 4445. RENEWAL OF LICENSE

~~The holder of such a license who desires to continue to operate a bakery shall annually, commencing on or before January 31, 1974, and thereafter on or before January 31, renew his or her license, pay the renewal fee, and receive a new license provided the licensee is entitled thereto. [Repealed.]~~

§ 4446. FEE

~~(a) A person owning or conducting a bakery as specified in sections 4441 and 4444 of this title shall pay to the Board a fee for each certificate and renewal thereof in accordance with the following schedule:~~

~~Bakery I—Home Bakery; \$100.00~~

~~II—Small Commercial; \$200.00~~

~~III—Large Commercial; \$350.00~~

~~IV—Camps; \$150.00~~

~~(b) The Commissioner of Health will be the final authority on definition of categories contained herein.~~

~~(c) All fees received by the Board under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services. [Repealed.]~~

§ 4447. ~~REVOCATION~~

~~Such license may be suspended or revoked by the board for cause after hearing. [Repealed.]~~

§ 4448. ~~NEW BAKERY~~

~~No person shall open a new bakery in this state without having given at least 15 days' notice to the department of intention to open such bakery which notice shall contain a description and location of the building proposed to be used as such bakery. Upon receipt of such notice, the department shall cause such premises to be examined and, if found to comply with the provisions and statutes relating to bakeries and the rules and regulations prescribed by the secretary, a license shall be issued upon payment of the fee as herein provided. [Repealed.]~~

§ 4449. ~~LOCAL REGULATIONS~~

~~The provisions of this subchapter shall not prevent local health authorities from making and enforcing orders or regulations concerning the sanitary condition of bakeries and the sale of bakery products, except that such orders and regulations shall be suspended to the extent necessary to give effect to the provisions of this subchapter and the rules and regulations prescribed pursuant thereto. [Repealed.]~~

§ 4450. ~~PENALTY~~

~~A person who violates any provisions of this subchapter shall be fined not more than \$500.00. [Repealed.]~~

§ 4451. ~~EXCEPTIONS~~

~~The provisions of this subchapter shall not apply to individuals manufacturing in and selling from their own private home kitchens bread, cakes, pies, or other food products made either wholly or in part from flour whose average gross retail sales of such products do not exceed \$125.00 a week, nor to restaurants, inns, or hotels subject to the provisions of subchapter 2 of this chapter, nor to church, fraternal, or charitable food sales. [Repealed.]~~

~~Subchapter 5. Salvage Food Facilities~~

§ 4461. ~~DEFINITIONS~~

~~For the purposes of this subchapter:~~

~~(1) "Salvage food" means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of accident, fire, flood, or other cause which may prevent~~

~~the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.~~

~~(2) “Salvage food facility” means a food vendor for which salvage foods comprise 50 percent or more of gross sales. [Repealed.]~~

~~§ 4462. REGULATIONS AND INSPECTION~~

~~The state board of health is authorized to inspect any salvage food facility at all reasonable times through its officers, inspectors, agents, or assistants. [Repealed.]~~

~~Subchapter 6. Temporary Outdoor Seating~~

~~§ 4465. LIMITED FOOD ESTABLISHMENTS; TEMPORARY OUTDOOR SEATING~~

~~A food establishment that prepares and serves food for off-premises uses may provide temporary outdoor seating for up to 16 persons from May 1 to October 31 without providing patron toilet or handwashing facilities. [Repealed.]~~

~~Sec. 2. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2016.~~

~~(Committee vote: 5-0-0)~~

~~**Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Finance.**~~

~~The Committee recommends that the bill be amended as recommended by the Committee on Health & Welfare with the following amendment thereto:~~

~~In Sec. 1, by striking out 18 V.S.A. § 4353, subsection (a), in its entirety and inserting in lieu thereof the following:~~

~~(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable license fee category or any license exemption. The following fees shall be paid annually to the Board at the time of making the application according to the following schedules:~~

- ~~(1) Restaurant I—Seating capacity of 0 to 25; \$105.00~~
- ~~II—Seating capacity of 26 to 50; \$180.00~~
- ~~III—Seating capacity of 51 to 100; \$300.00~~
- ~~IV—Seating capacity of 101 to 200; \$385.00~~
- ~~V—Seating capacity of 201 to 599; \$450.00~~
- ~~VI—Seating capacity 600 and over; \$1,000.00~~

VII—Home Caterer; \$155.00

VIII—Commercial Caterer; \$260.00

IX—Limited Operations; \$140.00

X—Fair Stand; \$125.00; if operating for four or more days per year; \$230.00

(2) Lodging establishments

I—Lodging capacity of 1 to 10; \$130.00

II—Lodging capacity of 11 to 20; \$185.00

III—Lodging capacity of 21 to 50; \$250.00

IV—Lodging capacity of 51 to 200; \$390.00

V—Lodging capacity of over 200; \$1,000.00

VI—Children’s camps; \$150.00

(3) Food ~~processor~~ manufacturing establishment—a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

(A) Food manufacturing establishments; nonbakeries

I—Gross receipts of \$10,001.00 to \$50,000.00; \$175.00

~~(B)II—Gross receipts of over \$50,000.00; \$275.00~~

III—Gross receipts of \$10,000.00 or less are exempt pursuant to section 4358 of this title

(B) Food manufacturing establishments; bakeries

I—Home bakery; \$100.00

II—Small commercial; \$200.00

III—Large commercial; \$350.00

(4) Seafood vending facility—\$200.00, unless operating pursuant to another license issued by the Department of Health and generating less than \$40,000.00 in seafood gross receipts annually. If generating more than \$40,000.00 in seafood gross receipts annually, the fee is to be paid regardless of whether the facility is operating pursuant to another license issued by the Department of Health.

(5) Shellfish reshippers and repackers—\$375.00.

(Committee vote: 7-0-0)

S. 116.

An act relating to rights of offenders in the custody of the Department of Corrections.

Reported favorably with recommendation of amendment by Senator Flory for the Committee on Institutions.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 2. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

~~(d)(1) Any~~ Except as provided in subdivision (2), any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, ~~except that:~~

(2)(A) the The court or Board may in its discretion shall permit the inspection of the report, or parts thereof redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney, and by the defendant or inmate, or his or her attorney, or; and

(B) the court or Board may in its discretion permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

* * *

Sec. 3. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility.~~ Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 4. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about himself or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds clear and convincing evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 5. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

Reported favorably with recommendation of amendment by Senator Benning for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 456 is added to read:

§ 456. PAROLE BOARD INDEPENDENCE

(a) The Parole Board shall be an independent and impartial body.

(b) The Parole Board shall not be counseled or represented by any attorney who, at the same time, has:

(1) an attorney-client relationship with the Department of Corrections; or

(2) an attorney-client relationship with an offender who has a hearing pending before the Board.

Sec. 2. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 3. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

(d)(1) ~~Any~~ Except as provided in subdivision (2) of this subsection, any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, ~~except that:~~

(2)(A) ~~the~~ The court or Board ~~may in its discretion~~ shall permit the inspection of the report, ~~or parts thereof~~ redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney, and by the defendant or inmate, or his or her attorney, ~~or; and~~

(B) the court or Board may, in its discretion, permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

* * *

Sec. 4. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility.~~ Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 5. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about him- or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds by a preponderance of the evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 6. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

S. 169.

An act relating to the Rozo McLaughlin Farm-to-School Program.

Reported favorably with recommendation of amendment by Senator Sirotkin for the Committee on Agriculture.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 211 is amended to read:

CHAPTER 211. THE ROZO MCLAUGHLIN
FARM-TO-SCHOOL PROGRAM

§ 4719. PURPOSE AND STATE GOAL

(a) Purpose. It is the purpose of this chapter to establish a farm-to-school program to:

(1) encourage Vermont residents in developing healthy and lifelong habits of eating nutritious local foods;

(2) maximize use by Vermont schools of fresh and locally grown, produced, or processed food;

(3) work with partners to establish a food, farm, and nutrition education program that educates Vermont students regarding healthy eating habits through the use of educational materials, classes, and hands-on techniques that inform students of the connections between farming and the foods that students consume;

(4) increase the size and stability of direct sales markets available to farmers; and

(5) increase participation of Vermont students in school meal programs by increasing the selection of available foods.

(b) State Farm to School Network goal. It is the goal of the Farm-to-School Program to establish a food system that by 2025:

(1) engages 75 percent of Vermont schools in an integrated food system education program that incorporates community-based learning; and

(2) purchases 50 percent of food from local or regional food sources.

§ 4720. DEFINITIONS

As used in this chapter, “Farm-to-School Program” means an integrated food, farm, and nutrition education program that utilizes community-based learning opportunities to connect schools with nearby farms to provide

students with locally produced fresh fruits and vegetables, dairy and protein products, and other nutritious, locally produced foods in school breakfasts, lunches, and snacks; help children develop healthy eating habits; provide nutritional and agricultural education in the classroom, cafeteria, and school community; and improve farmers' incomes and direct access to markets.

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or licensed childcare providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in the School ~~Food Service~~ Nutrition Program;

(2) fund items, including local ~~farm~~ food products, gardening supplies, field trips to farms, and stipends to visiting farmers, that will help teachers to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) ~~provide~~ fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, school nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food-service workers~~ school nutrition staff, and educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~, school districts and licensed child care providers that are developing farm-to-school connections and education that indicate a

willingness to make changes to their school or childcare nutrition programs that increase student access and participation and that are making progress toward the implementation of the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than \$15,000.00.

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them to increase their markets through selling their products to schools, licensed child care providers, and State government agencies ~~and participating in the federal food commodities program, including the federal Department of Defense Fresh Program, and selling to regulated child care programs participating in the Adult and Child Food Program that operate or participate in child nutrition programs.~~

(b) The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, licensed child care providers, and State government agencies to increase the availability of local products.

§ 4723. PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE PERSONNEL

(a) The Secretary of Education, in consultation with the Secretary of Agriculture, Food and Markets, the Commissioner of Health, and farm-to-school organizations and partners, shall offer ~~expanded~~ regional training sessions for public school food service and child care personnel and child care resource development specialists ~~as funds are made available~~. Training shall include information about strategies for ~~purchasing~~ procuring, processing, and serving locally grown foods, especially with regard to federal procurement program requirements, as well as information about nutrition, obesity prevention, coping with severe food allergies, and food service operations. The Secretary of Education may use a portion of the funds appropriated for this training session to pay a portion of or all expenses for attendees and to develop manuals or other materials to help in the training.

(b) The Secretary of Education shall ~~train people as funds are made available to,~~ with existing programs and organizations, provide training related to procurement of local food and technical assistance to school food service and child care personnel and use a portion of the funds appropriated for this

purpose to enable the trained people to provide technical assistance at the school and school district levels.

(c) Training provided under this section shall promote the policies established in the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agencies of Agriculture, Food and Markets and of Education and the Department of Health, ~~dated November 2005~~ updated in June 2015, or the guidelines' successor.

§ 4724. ~~LOCAL FOODS COORDINATOR~~ FOOD SYSTEMS ADMINISTRATOR

(a) The position of ~~local food coordinator~~ Food Systems Administrator is established in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for the purpose of assisting Vermont producers ~~to increase~~ in increasing their access to commercial markets and institutions, including schools, ~~state~~ licensed child care providers, ~~State~~ and municipal governments, and hospitals.

(b) The duties of the ~~local foods coordinator~~ Food Systems Administrator shall include:

(1) working with institutions, schools, licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets, and coordinating with interested parties to access funding or create matchmaking opportunities across the supply chain that increase participation in those programs;

(3) encouraging and facilitating ~~the enrollment of state employees~~ State employee access and awareness of opportunities for purchasing local food, including: enrollment in a local community supported agriculture (CSA) organization, purchasing from local farm stands, and participation in a farmers' market;

(4) developing a database of producers and potential purchasers and enhancing the ~~agency's website~~ Agency and partners' ability to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) ~~The local foods coordinator~~ Food Systems Administrator, working with the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services pursuant to rules adopted under 29 V.S.A. § 152(14), shall:

(1) encourage and facilitate ~~CSA enrollment~~ awareness of and opportunities to procure healthy local foods by ~~state~~ State employees through the use of approved advertisements and solicitations on ~~state-owned~~ State-owned property; and

(2) implement guidelines for the appropriate use of ~~state~~ State property for employee participation in CSA organizations, including reasonable restrictions on the time, place, and manner of solicitations, advertisements, deliveries, and related activities to ensure the safety and welfare of ~~state~~ State property and its occupants.

(d) ~~The local foods coordinator~~ Food Systems Administrator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 2. UNIVERSAL MEALS PROGRAM; SCHOOL FUNDING

In addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2017 for the Farm-to-School Program, there is appropriated to the Farm-to-School Program at the Agency of Agriculture, Food and Markets \$80,000.00 for the purpose of executing, operating, and providing grants under 6 V.S.A. § 4721 to assist schools in developing universal meals programs when the schools are eligible for universal meals participation under federal school nutrition programs.

Sec. 3. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) When the cost exceeds \$15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of \$15,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

* * *

(4) nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to use a method of bidding or request for proposal, a school board is required to use a method of public bidding or request for proposal for purchases made from the nonprofit school food service account for purchases in excess of \$25,000.00, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account;

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Kirstin Schoonover of Huntington – Superior Court Judge – By Sen. Benning for the Committee on Judiciary. (2/25/16)

Brian Valentine of Huntington – Magistrate Division Judge – By Sen. Nitka for the Committee on Judiciary. (3/9/16)

Mary Morrissey of Jericho – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (3/9/16)

NOTICE OF JOINT ASSEMBLY

March 17, 2016 - 10:30 A.M. - Retention of Superior Court Judges: David Howard, Robert A. Mello, Helen M. Toor and Thomas S. Durkin.

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).