

1 Introduced by Committee on Natural Resources and Energy

2 Date:

3 Subject: Conservation and development; natural resources; environmental  
4 conservation; permit procedures; on the record appeals

5 Statement of purpose of bill as introduced: This bill proposes to establish  
6 standardized procedures for public notice and issuance of decisions on  
7 applications for permits and approvals issued by the Department of  
8 Environmental Conservation and to direct that appeals from those decisions be  
9 on the record.

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

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

13 \* \* \* Environmental Conservation; Standard Procedures; Option for

14 Administrative Appeal \* \* \*

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

16 CHAPTER 170. DEPARTMENT OF ENVIRONMENTAL

17 CONSERVATION; STANDARD PROCEDURES;

18 ADMINISTRATIVE APPEALS

1 Subchapter 1. General Provisions

2 § 7701. PURPOSE

3 The purpose of this chapter is to establish standard procedures for public  
4 notice, public meetings, and decisions relating to applications for permits  
5 issued by the Department of Environmental Conservation, and to provide an  
6 option for administrative appeals of those decisions within the Agency of  
7 Natural Resources.

8 § 7702. DEFINITIONS

9 As used in this chapter:

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

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

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

16 (2) “Administrative amendment” means an amendment to an individual  
17 permit, general permit, or notice of intent under a general permit that corrects  
18 typographical errors, changes the name or mailing address of a permittee, or  
19 makes other similar changes to a permit that do not require technical review of  
20 of the permitted activity or the imposition of new conditions or requirements.

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

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

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

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

18           (7) “Clean Water Act” means the Federal Water Pollution Control Act,  
19           33 U.S.C. § 1251 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

16          (21) “RCRA” means the Resource Conservation and Recovery Act,  
17          42 U.S.C. § 6901 et seq.

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

19          (23) “Technical review” means the application of scientific,  
20          engineering, or other professional expertise to the facts to determine whether

1 activity for which a permit is requested meets the standards for issuing the  
2 permit under statute and rule.

3 § 7703. RULES; ADDITIONAL NOTICE OR PROCEDURES

4 (a) The Secretary may adopt rules to implement this chapter and shall adopt  
5 procedural rules to implement subchapter 3 (administrative appeals) of this  
6 chapter.

7 (b) The Secretary may require, by rule or in an individual case, measures in  
8 addition to those directed by this chapter to provide notice to other persons  
9 potentially affected by the issuance of a permit.

10 (c) In an individual case, the Secretary may determine to apply the  
11 procedures of section 7706 (Type 2) of this chapter to the issuance of a permit  
12 otherwise subject to the procedures of section 7708 (Type 4) or section 7709  
13 (Type 5) of this chapter.

14 Subchapter 2. Standard Procedures

15 § 7704. PERMIT PROCEDURES; STANDARD PROVISIONS

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

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

19 (A) each person requiring notice under section 7705 of this chapter;

20 (B) the applicant;

21 (C) each person on an interested persons list;

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

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

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

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

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

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

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

13          (E) the length of the period for submitting written comments and the  
14          process for submitting those comments, if applicable, and notice of the  
15          requirement to submit comments during that period in order to seek  
16          administrative appeal under this chapter or appeal under chapter 220 of  
17          this title;

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

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

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

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

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

8           (b) Notice to adjoining property owners. When this chapter requires notice  
9           to adjoining property owners, the applicant shall provide notice of an  
10           application by U.S. mail to all adjoining property owners, on a form developed  
11           by the Secretary, at the time the application is submitted to the Secretary. The  
12           applicant shall provide a signed certification to the Secretary that all adjoining  
13           property owners have been notified of the application.

14           (c) Comment period length. When this chapter requires the Secretary to  
15           provide a public comment period, the length of the period shall be at least  
16           30 days, unless this chapter applies a different period for submitting comments  
17           on the particular type of permit.

18           (d) Period to request a public meeting. When this chapter allows a person  
19           to request a public meeting on a draft decision, the person shall submit the  
20           request within 14 days of the date on which notice of the draft decision is



1 posted to the environmental notice bulletin, unless this chapter specifies a  
2 different period for requesting a hearing on the particular type of permit.

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

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

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

11 (3) hold the period for written comments open for at least five days after  
12 the hearing.

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

17 (g) Response to comments. When this chapter requires the Secretary to  
18 provide a response to comments, the Secretary shall provide a response to all  
19 comments received during the comment period and shall post the response to  
20 comments to the environmental notice bulletin and send it to all commenters.

1        (h) Final decisions; content; notice.

2            (1) The Secretary’s final decision on an application for a permit or on  
3 the issuance of a general permit shall include a concise statement of the facts  
4 and analysis supporting the decision that is sufficient to apprise the reader of  
5 the decision’s factual and legal basis.

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

9        § 7705. TYPE 1 PROCEDURES

10       (a) Purpose; scope.

11           (1) The purpose of this section is to establish the public notice and  
12 comment requirements that the Department must follow when adopting general  
13 permits and considering applications for individual permits under the Clean  
14 Air Act, Clean Water Act, and RCRA.

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

1        (b) Notice of application.

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

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

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

10        (c) Notice of draft decision or draft general permit. The Secretary shall  
11 provide notice of a draft decision or draft general permit through the  
12 environmental notice bulletin and shall post the draft decision or permit to the  
13 bulletin. In addition to the requirements of section 7704 of this chapter:

14            (1) The Secretary shall post to the bulletin a fact sheet meeting the  
15 applicable requirements of federal regulations implementing the Clean  
16 Water Act.

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

19            (3) The Secretary shall provide notice of the decision in a daily or  
20 weekly newspaper in the area of the proposed project, or if a draft general  
21 permit, in daily or weekly newspapers in each general region of the State. In

1 addition to the requirements of 3 V.S.A. § 2826(a)(1), the environmental notice  
2 bulletin notice and the newspaper notice shall include all information required  
3 pursuant to the applicable requirements of federal regulations implementing  
4 the Clean Air and Clean Water Acts.

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

7 (e) Public meeting. On or before the end of the comment period, any  
8 person may request a public meeting on the draft decision or draft general  
9 permit issued under this section. The Secretary shall hold a public meeting at  
10 his or her discretion or whenever any person files a written request for a  
11 meeting. The Secretary shall provide at least 30 days' notice of the public  
12 meeting through the environmental notice bulletin.

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

18 § 7706. TYPE 2 PROCEDURES

19 (a) Purpose; scope.

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

1 applications for individual permits, except for individual permits specifically  
2 listed in other sections of this subchapter, and when considering other permits  
3 listed in this section.

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

6 (A) an individual permit issued pursuant to the Secretary’s authority  
7 under this title and 29 V.S.A. chapter 11, except for permits governed by  
8 sections 7705 and 7707–7709 of this chapter;

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

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

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

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

15 (b) Notice of application.

16 (1) The applicant shall provide notice to adjoining property owners. In  
17 addition, for public water system source protection areas, the applicant shall  
18 provide notice to all property owners located in:

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

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

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

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

9           (d) Public meeting. Any person may request a public meeting on a draft  
10           decision issued under this section or the Secretary may hold a meeting at his or  
11           her discretion.

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

16           § 7707. TYPE 3 PROCEDURES

17           (a) Purpose; scope.

18           (1) The purpose of this section is to establish the public notice and  
19           comment requirements that the Department must follow when adopting general  
20           permits, except for general permits governed by section 7705 of this chapter,  
21           and when considering other permits listed in this section.

1           (2) The procedures under this section shall be known as Type 3

2           Procedures. This section governs each of the following:

3                   (A) Each general permit issued pursuant to the Secretary’s authority  
4           under this title other than a general permit subject to section 7705 of this  
5           chapter. However, this section does not apply to a notice of intent under a  
6           general permit.

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

9                   (C) An application or request for approval of:

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

11                   (ii) an aquatic nuisance control permit under chapter 50 of  
12           this title;

13                   (iii) a change in treatment for a public water supply under chapter  
14           56 of this title;

15                   (iv) a collection plan for mercury-containing lamps under section  
16           7156 of this title;

17                   (v) an individual plan for the collection and recycling of electronic  
18           waste under section 7554 of this title; and

19                   (vi) a primary battery stewardship plan under section 7586 of  
20           this title.

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

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

8       (d) Public meeting. Any person may request a public meeting on a draft  
9       decision issued under this section or the Secretary may hold a meeting at his or  
10       her discretion.

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

14       § 7708. TYPE 4 PROCEDURES

15       (a) Purpose; scope.

16               (1) The purpose of this section is to establish the public notice and  
17       comment requirements that the Department must follow when considering  
18       applications for notice of intent under a general permit and other permits listed  
19       in this section.

20               (2) The procedures under this section shall be known as Type 4  
21       Procedures. This section applies to each of the following:



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

3           (B) an application for each of following permits:

4                   (i) construction or operation of an air contaminant source less than  
5                   10 tons per year under chapter 23 of this title;

6                   (ii) construction or expansion of a public water supply under  
7                   chapter 56 of this title, except that a change in treatment for a public water  
8                   supply shall proceed in accordance with section 7707 of this chapter;

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

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

13                  (v) a medium scale composting certification under chapter 159 of  
14                  this title.

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

18           (c) Notice of draft decision; comment period. The Secretary shall provide  
19           notice of the draft decision through the environmental notice bulletin and shall  
20           post the draft decision to the bulletin. The Secretary shall provide a public  
21           comment period of at least 10 days on the draft decision.

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

4        § 7709. TYPE 5 PROCEDURES

5        (a) Purpose; scope.

6            (1) The purpose of this section is to establish the public notice and  
7        comment requirements that the Department must follow when issuing  
8        emergency permits and other permits listed in this section.

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

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

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

15            (C) issuance of authorizations, under a stream alteration general  
16       permit issued under chapter 41 of this title, for reporting without an  
17       application, for an emergency, and for activities to prevent risks to life or of  
18       severe damage to improved property posed by the next annual flood;

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

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

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

4           (b) Notice of final decision. The Secretary shall provide notice of the final  
5           decision through the environmental notice bulletin and shall post the decision  
6           to the bulletin.

7           § 7710. AMENDMENTS; RENEWALS

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

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

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

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

17          § 7711. EXEMPTIONS

18          This subchapter shall not govern an application or petition for:

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

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

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

2                           Subchapter 3. Administrative Appeals

3           § 7721. DEFINITIONS

4           As used in this subchapter:

5                   (1) “Party” means the Secretary or designee, a person aggrieved by an  
6           act or decision of the Secretary, and a person who meets the standard for  
7           intervention established in the Vermont Rules of Civil Procedure.

8                   (2) “Person aggrieved” means a person who alleges an injury to a  
9           particularized interest protected by the provisions of law listed in subsection  
10           8503(a) of this title, other than chapter 64 (potable water supply and  
11           wastewater) of this title, if the injury is attributable to an act or decision by the  
12           Agency that the Agency can redress.

13           § 7722. APPEAL WITHIN THE AGENCY; HEARING OFFICER; GRANT  
14           OF PETITION; STAYS

15                   (a) Option; scope. Within 15 days of the date of an act or decision of the  
16           Agency made under the provisions of law listed under subsection 8503(a) of  
17           this title other than chapter 64 (potable water supply and wastewater) of this  
18           title, the Secretary or any person aggrieved by the act or decision may petition  
19           for administrative appeal of the act or decision within the Agency.

20                   (b) Appointment of hearing officer. On receipt of a petition for an  
21           administrative appeal, the Secretary shall appoint a hearing officer to

1 determine whether to grant the petition and, if the petition is granted, to  
2 conduct the administrative appeal.

3 (1) In connection such a petition, the hearing officer shall not  
4 communicate, directly or indirectly, in connection with any issue of fact or  
5 issue of law with any person aggrieved, other party, or the Secretary, except  
6 upon notice and opportunity for all parties to participate. The hearing officer  
7 may solicit the advice of one or more personal assistants.

8 (2) A hearing officer appointed under this section shall be able to carry  
9 out all duties assigned to the officer without being subject to any retaliatory  
10 action.

11 (c) Grant of petition. The hearing officer shall grant a petition to hear an  
12 administrative appeal if the officer determines that one of the following  
13 applies:

14 (1) The petitioner:

15 (A) made a comment during the comment period, if one was  
16 provided, and the petition relates to the comment; or the petitioner shows that  
17 there was a procedural defect that prevented the petitioner from  
18 commenting; and

19 (B) presents specific allegations based on the administrative record  
20 that, if taken as true, would show that the act or decision should be reversed  
21 under the standards of review in section 7723 of this title.

1           (2) The petitioner presents specific allegations that, if taken as true,  
2           would show that the applicant provided false information or omitted material  
3           information that was or came into the applicant’s possession prior to the close  
4           of the comment period.

5           (d) Information in application. In the case of an appeal by the applicant,  
6           the hearing officer shall consider information contained in the application to be  
7           a comment made during the comment period.

8           (e) Stays. Acceptance of an appeal under this section shall automatically  
9           stay the act or decision if it involves a stream alteration permit or shoreline  
10           encroachment permit. Otherwise, the act or decision shall remain in effect  
11           unless the hearing officer grants a stay. The hearing officer may grant such a  
12           stay on petition by a party or on the officer’s own motion.

13           (f) Tolling; period to appeal to Environmental Division. The filing of a  
14           petition under this section shall toll the period for filing an appeal of the act or  
15           decision under section 220 of this title. This period shall begin to run again in  
16           full when the hearing officer declines to hear the petition under subsection (c)  
17           of this section or issues a final decision under section 7723 of this chapter,  
18           whichever is earlier.

19           § 7723. NOTICE; REVIEW; DECISION

20           (a) Notice. When the Agency grants a petition for an administrative appeal  
21           under this subchapter, the Agency shall notify the petitioner of the grant and

1 shall provide notice of the appeal in the same manner as for notice of a final  
2 decision under section 7704 of this title.

3 (b) Hearing officer; final decision. A hearing officer appointed under this  
4 section shall have authority to issue a final decision.

5 (c) Conduct and standard of review. A hearing officer shall conduct an  
6 administrative appeal by reviewing the administrative record, except as  
7 provided by subsection (d) of this section. The hearing officer shall provide  
8 parties with an opportunity to submit written memoranda and present oral  
9 argument. The hearing officer shall apply independent judgment in deciding  
10 the appeal. The hearing officer shall affirm the decision of the Agency unless  
11 the hearing officer determines that the administrative record does not support  
12 the decision or that the decision is contrary to law.

13 (d) Additional information.

14 (1) The hearing officer may consider additional information not  
15 included in the administrative record only under one of the following two  
16 circumstances.

17 (A) A person aggrieved persuades the hearing officer, after  
18 reasonable opportunity for other parties to comment, that additional  
19 information will materially further the Agency's understanding of the  
20 application or general permit. The hearing officer shall not allow additional  
21 information under this subdivision (1) unless the person aggrieved:

1           (i) commented on the permit during the comment period, if one  
2           was provided, or the person shows that there was a procedural defect that  
3           prevented the person from commenting;

4           (ii) provides the additional information at the time the person files  
5           the petition for the appeal or requests to be a party to the appeal; the additional  
6           information provides expert opinion; and the additional information is related  
7           to the person’s comment during the comment period, if one was provided; and

8           (iii) certifies that the information was not available until after the  
9           close of that comment period.

10           (B) A person aggrieved persuades the hearing officer, after  
11           reasonable opportunity for other parties to comment, that the applicant  
12           provided the Secretary with false information or omitted information that was  
13           in the possession of the applicant before or during the comment period, if  
14           provided to the Secretary, may have caused the Secretary to reach a different  
15           decision than the one reached by the Secretary.

16           (2) If the hearing officer determines to consider additional information,  
17           the hearing officer shall conduct the proceeding as a contested case under  
18           3 V.S.A. chapter 25.

19           (e) A final decision shall include findings of fact and conclusions of law,  
20           separately stated. Findings of fact shall be accompanied by a concise and  
21           explicit statement of the underlying facts supporting the findings. All parties



1 to the appeal shall be notified by mail of a final decision under this section. A  
2 copy of the decision shall be delivered or mailed to each attorney of record and  
3 to each party not having an attorney of record. That mailing shall constitute  
4 actual knowledge to that person or party.

5 Sec. 2. RULES; EFFECT ON PROCEDURAL REQUIREMENTS

6 Sec. 1 of this act shall supersede any requirements for notice and processing  
7 of applications contained in rules adopted by the Department of Environmental  
8 Conservation other than rules pertaining to applications that are exempt under  
9 Sec. 1, 10 V.S.A. § 7711.

10 \* \* \* Environmental Notice Bulletin \* \* \*

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

12 § 2826. ENVIRONMENTAL NOTICE BULLETIN; PERMIT HANDBOOK

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

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

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

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

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

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

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

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

13          Sec. 4. BULLETIN; REVISION

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

1           \* \* \* On the Record Appeals from Agency of Natural Resources to the  
2                                   Environmental Division \* \* \*

3       Sec. 5. 10 V.S.A. § 8503 is amended to read:

4       § 8503. APPLICABILITY

5       (a) This chapter shall govern all appeals of an act or decision of the  
6       Secretary, excluding enforcement actions under chapters 201 and 211 of this  
7       title and rulemaking, under the following authorities and under the rules  
8       adopted under those authorities:

9           (1) The following provisions of this title:

10                  (A) chapter 23 (air pollution control);

11                  (B) chapter 50 (aquatic nuisance control);

12                  (C) chapter 41 (regulation of stream flow);

13                  (D) chapter 43 (dams);

14                  (E) chapter 47 (water pollution control);

15                  (F) chapter 48 (groundwater protection);

16                  (G) chapter 53 (beverage containers; deposit-redemption system);

17                  (H) chapter 55 (aid to municipalities for water supply, pollution  
18       abatement, and sewer separation);

19                  (I) chapter 56 (public water supply);

20                  (J) chapter 59 (underground and aboveground liquid storage tanks);

21                  (K) chapter 64 (potable water supply and wastewater system permit);

- 1 (L) section 2625 (regulation of heavy cutting);  
2 (M) chapter 123 (protection of endangered species);  
3 (N) chapter 159 (waste management);  
4 (O) chapter 37 (wetlands protection and water resources  
5 management);  
6 (P) chapter 166 (collection and recycling of electronic waste);  
7 (Q) chapter 164A (collection and disposal of mercury-containing  
8 lamps);  
9 (R) chapter 32 (flood hazard areas);  
10 (S) chapter 49A (lake shoreland protection standards);  
11 (T) chapter 83, subchapter 8 (importation of firewood);  
12 (U) chapter 168 (product stewardship for primary batteries and  
13 rechargeable batteries).  
14 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).  
15 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

16 \* \* \*

17 (h) This chapter shall govern all appeals of a final decision of a hearing  
18 officer under section 7723 of this title.

19 Sec. 6. 10 V.S.A. § 8504 is amended to read:

20 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

1 (a) Act 250 and Agency appeals. Within 30 days of the date of the act or  
2 decision, any person aggrieved by an act or decision of the Secretary, the  
3 Natural Resources Board, or a District Commission, or by a final decision of  
4 Agency hearing officer under section 7723 of this title, under the provisions of  
5 law listed in section 8503 of this title, or any party by right, may appeal to the  
6 Environmental Division, ~~except for.~~ This subsection does not apply to an act  
7 or decision of the Secretary under subdivision 6086b(3)(E) of this title or an  
8 act or decision governed by section 8506 of this title. The filing of an  
9 administrative appeal under chapter 170, subchapter 3 of this title shall toll the  
10 30-day period for appealing an act or decision of the Secretary in accordance  
11 with the provisions of subsection 7722(f) of this title.

12 \* \* \*

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

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

1           (2) An aggrieved person shall not appeal an act or decision that was  
2           made by the Secretary under the procedures of chapter 170 of this title or a  
3           final decision by an Agency hearing officer under subchapter 3 of that chapter  
4           unless the person submitted a comment during the comment period, if one was  
5           provided; participated in the public meeting, if one was held; and, if the appeal  
6           is from the final decision of a hearing officer, participated before that officer.  
7           In addition, the person may only appeal issues related to the comment that was  
8           filed by that person. In the case of an appeal by the applicant, the Division  
9           shall consider information contained in the application to be a comment made  
10           during the comment period.

11           (3) Notwithstanding ~~subdivision~~ subdivisions (d)(1) and (2) of this  
12           section, an aggrieved person may appeal an act or decision of the District  
13           Commission or the Secretary or a final decision of an Agency hearing officer if  
14           the Environmental judge determines that:

15                   (A) there was a procedural defect which prevented the person from  
16                   obtaining party status, submitting a comment during comment period, or  
17                   otherwise participating in the proceeding;

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

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

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(h) ~~De novo hearing~~ Hearing; standard of review. The Environmental Division, applying the substantive standards that were applicable before the tribunal appealed from, shall hold a de novo hearing on those issues which have been appealed, except in the case of:

(1) a decision being appealed on the record pursuant to 24 V.S.A. chapter 117;

(2) a decision of the Secretary using the procedures under chapter 170 of this title, a final decision of an Agency hearing officer under subchapter 3 of that chapter, and a decision of the Commissioner of Forests, Parks and Recreation under section 2625 of this title ~~being appealed on the record, in which case the court shall affirm the decision, unless it finds that the Commissioner did not have reasonable grounds on which to base the decision.~~ Division shall review the decision on the record, applying the following standards of review:

(A) The Division shall affirm the decision’s statements or findings of fact unless they are clearly erroneous.

(B) The Division shall affirm an exercise of discretion unless the Secretary, hearing officer, or Commissioner abused that discretion.





1 ~~excluding greenhouse gases, shall be 30 days if the source constitutes a major~~  
2 ~~stationary source or major modification under the rules of the secretary and~~  
3 ~~shall otherwise be 10 days. For air contaminant sources that have allowable~~  
4 ~~emissions of less than 10 tons per year of all contaminants, the secretary may~~  
5 ~~provide an opportunity for public comment or a public informational hearing,~~  
6 ~~or both, before ruling on a proposed permit. In determining whether to provide~~  
7 ~~for comment or a meeting, the secretary shall consider the degree of toxicity of~~  
8 ~~the air contaminant and the emission rate, the proximity of the source to~~  
9 ~~residences, population centers and other sensitive human receptors, and~~  
10 ~~emission dispersion characteristics at or near the source. The secretary shall~~  
11 ~~fully consider all written and oral submissions concerning proposed permits~~  
12 ~~prior to taking final action on those proposed permits. When an application is~~  
13 ~~filed under this section, the Secretary shall proceed in accordance with chapter~~  
14 ~~170 of this title.~~

15 \* \* \*

16 Sec. 8. 10 V.S.A. § 556a is amended to read:

17 § 556a. OPERATING PERMITS

18 \* \* \*

19 (c) ~~For air contaminant sources that have allowable emissions of more than~~  
20 ~~10 tons per year of all contaminants, excluding greenhouse gases, upon making~~  
21 ~~a determination to issue a draft permit, the secretary shall issue a notice that~~

1 includes a brief description of the source and the address where a complete  
2 permit application and a draft permit may be reviewed, shall provide a public  
3 comment period on all draft permits, and shall hold a public informational  
4 meeting, if requested. The public comment period on a draft permit for a  
5 source that has allowable emissions of more than 10 tons per year, excluding  
6 greenhouse gases, shall be 30 days if the source is subject to subchapter V  
7 (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and  
8 shall otherwise be 10 days. For air contaminant sources that have allowable  
9 emissions of less than ten tons per year of all contaminants, the secretary may  
10 provide an opportunity for public comment or a public informational hearing,  
11 or both, before ruling on a proposed permit. In determining whether to provide  
12 for comment or a meeting, the secretary shall consider the degree of toxicity of  
13 the air contaminant and the emission rate, the proximity of the source to  
14 residences, population centers and other sensitive human receptors, and  
15 emission dispersion characteristics at or near the source. The secretary shall  
16 fully consider all written and oral submissions concerning proposed permits  
17 prior to taking final action on those proposed permits. When an application is  
18 filed under this section, the Secretary shall proceed in accordance with  
19 chapter 170 of this title.

20 \* \* \*

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

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

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

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

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

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

21 \* \* \*

1 (h)(1) ~~The secretary may issue~~ Secretary may adopt, as a rule under  
2 3 V.S.A. chapter 25, a general operating permits permit covering numerous  
3 similar sources. ~~A general permit shall be adopted as an administrative rule~~  
4 ~~under the provisions of 3 V.S.A. chapter 25. Each rule creating a general~~  
5 ~~permit shall include provisions that require public notice of the fact that~~  
6 ~~specified emitters have applied for general permits.~~

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

15 \* \* \*

16 Sec. 9. 10 V.S.A. § 754 is amended to read:

17 § 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM

18 MUNICIPAL REGULATION

19 \* \* \*

20 (b) Required rulemaking content. The rules shall:

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

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

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

10 \* \* \*

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

21 \* \* \*

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

2 § 914. WETLANDS DETERMINATIONS

3 \* \* \*

4 (c) ~~The Secretary shall provide by certified mail written notice of a~~  
5 ~~proposed determination to the owner of each parcel of land within or adjacent~~  
6 ~~to the wetland or buffer zone in question; publish notice on the Agency~~  
7 ~~website; and provide an electronic notice to persons who have requested to be~~  
8 ~~on a list of interested persons. Such notice shall include the date of the~~  
9 ~~Secretary's proposed determination and shall provide no fewer than 30 days~~  
10 ~~from the date of the Secretary's proposed determination within which to file~~  
11 ~~written comments or to request that the Secretary hold a public meeting on the~~  
12 ~~proposed determination. The provisions of chapter 170 of this title shall apply~~  
13 ~~to issuance of determinations under this section.~~

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

17 [Repealed.]

18 \* \* \*

1 Sec. 11. 10 V.S.A. § 1022 is amended to read:

2 § 1022. APPLICATION FOR ALTERATION

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

14 Sec. 12. 10 V.S.A. § 1023 is amended to read:

15 § 1023. INVESTIGATION, PERMIT

16 \* \* \*

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



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Sec. 13. 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. 14. 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~~

1 ~~will be completed and by publishing in a local newspaper at least 10 days~~  
2 ~~before the meeting.~~ The Department shall proceed in accordance with chapter  
3 170 of this title.

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

14 Sec. 15. 10 V.S.A. § 1100 is amended to read  
15 § 1100. FEDERAL COOPERATION

16 \* \* \*

17 (4) Where cultivated agricultural lands in excess of one hundred acres  
18 are to be taken for the purposes of a flood control project, or the recreational  
19 development of the ~~state~~ State or the economy of the river basin involved may  
20 be affected thereby, the ~~department, of its own motion, may, and upon petition~~  
21 ~~to it by interested parties, shall, appoint a time and place for hearing in the~~

1 ~~vicinity of the flood control project, hold a public information meeting after~~  
2 ~~giving notice to interested parties as it directs~~ Department shall provide notice,  
3 an opportunity to submit comments, and an opportunity to request a public  
4 meeting in accordance with section 7706 (Type 2 Procedures) of this title.  
5 ~~Upon hearing, the department~~ The Department shall determine the effect the  
6 flood control project will have upon agricultural land uses or recreational  
7 values in this ~~state~~ State, or upon the economy of the river basin involved, and  
8 report its findings and recommendations to the proper federal agency or  
9 authority having the flood control project in charge for its consideration and  
10 recognition. The Department shall post its findings and recommendations as a  
11 final decision in accordance with chapter 170 of this title.

12 Sec. 16. 10 V.S.A. § 1252 is amended to read:

13 § 1252. CLASSIFICATION OF WATERS; MIXING ZONES

14 \* \* \*

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

19 (1) Prepare a draft permit which includes a description of the proposed  
20 waste management zone ~~prior to publishing the notice required by subdivision~~

1 ~~(2) of this subsection~~ and proceed in accordance with subsections 7706(c), (d),  
2 and (e) of this title.

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

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

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

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

18 ~~(6)~~(3) Determine that the creation or expansion of such a waste  
19 management zone is in the public interest after giving due consideration to the  
20 factors specified in subdivisions 1253(e)(1) through (10) of this title.

21 ~~(7)~~(4) Determine that the creation or expansion of such a zone will not:

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\* \* \*

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

\* \* \*

Sec 17. 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~~

1 ~~complies with the terms and conditions of the general permit, for ten days~~  
2 ~~following receipt of the application.~~ When an application is filed under this  
3 section, the Secretary shall proceed in accordance with chapter 170 of this title.

4 The ~~secretary~~ Secretary may require any applicant to submit any additional  
5 information, ~~which~~ that the ~~secretary~~ Secretary considers necessary and may  
6 refuse to grant a permit, or permission to discharge under the terms of a  
7 general permit, until the information is furnished and evaluated.

8 \* \* \*

9 Sec. 18. 10 V.S.A. § 1265 is amended to read:

10 § 1265. TEMPORARY POLLUTION PERMITS

11 \* \* \*

12 (b) ~~The Secretary shall give notice of each application to the public and any~~  
13 ~~appropriate officials of another state and the federal government including the~~  
14 ~~administrator of the U.S. Environmental Protection Agency, and shall provide~~  
15 ~~an opportunity for written comments or a public hearing, or, both on the~~  
16 ~~application before ruling on the application.~~ When an application is filed  
17 under this section, the Secretary shall proceed in accordance with chapter 170  
18 of this title. The Secretary may require the applicant to submit any additional  
19 information ~~which he or she~~ that the Secretary considers necessary, and may  
20 refuse to grant a permit until the information is furnished and evaluated.

21 \* \* \*

1 Sec. 19. 10 V.S.A. § 1268 is amended to read:

2 § 1268. EMERGENCY PERMITS

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

15 \* \* \*

16 Sec. 20. 10 V.S.A. § 1418 is amended to read:

17 § 1418. GROUNDWATER WITHDRAWAL PERMIT

18 \* \* \*

19 ~~(c)(1) At least 30 days before filing an application for a permit under this~~  
20 ~~section, the applicant shall hold an informational hearing in the municipality in~~  
21 ~~which the withdrawal is proposed in order to describe the proposed project and~~

1 ~~to hear comments regarding the proposed project. Public notice shall be given~~  
2 ~~by posting in the municipal offices of the town in which the withdrawal is~~  
3 ~~proposed and by publishing in a local newspaper at least 10 days before the~~  
4 ~~meeting.~~

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

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

10 ~~(B) adjoining municipalities;~~

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

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

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

20 ~~(3) The applicant shall publish notice of the application in a newspaper~~  
21 ~~of general circulation in the area in which the withdrawal is proposed and shall~~



1 ~~post a copy of the notice in the municipal clerk's office in the municipality in~~  
2 ~~which the withdrawal is located.~~

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

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

21 \* \* \*

1 Sec. 21. 10 V.S.A. § 1443 is amended to read:

2 § 1443. INDIVIDUAL PERMIT REQUIREMENTS FOR IMPERVIOUS  
3 SURFACE OR CLEARED AREA IN A PROTECTED  
4 SHORELAND AREA

5 \* \* \*

6 (c) Permit process.

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

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

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

18 \* \* \*

19 Sec. 22. 10 V.S.A. § 1455 is amended to read:

20 § 1455. AQUATIC NUISANCE CONTROL PERMIT

21 \* \* \*



1 Sec. 24. 10 V.S.A. § 1675 is amended to read:

2 § 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF  
3 REVOCATION

4 \* \* \*

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

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

1 health issues raised by the application. The Commissioner’s response, if any,  
2 shall be part of the public record for the application.

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

18 \* \* \*

19 Sec. 25. 10 V.S.A. § 1679 is amended to read:

20 § 1679. PUBLIC WATER SOURCE PROTECTION AREAS

21 \* \* \*

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

14                               \* \* \*

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

16       § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

17                               \* \* \*

18       ~~(f) On or before the date of filing any certification or permit application for~~  
19       ~~a facility, the applicant shall send notice and a copy of the application to the~~  
20       ~~municipality where the facility is proposed to be or is located, and any adjacent~~  
21       ~~Vermont municipality if the land is located on a boundary. The applicant shall~~

1 ~~furnish to the certifying or permitting authority the names of those furnished~~  
2 ~~notice of application. Notwithstanding the provisions of subsection (c) of this~~  
3 ~~section, the Secretary shall not issue a certification for a new facility or a~~  
4 ~~recertification for an existing facility unless the town, city, or village in which~~  
5 ~~the facility is located has been notified. When an application for a certification~~  
6 ~~is filed under this section, the Secretary shall proceed in accordance with~~  
7 ~~chapter 170 of this title.~~

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

12 \* \* \*

13 (2) ~~The Secretary shall, following his or her issuance of approval of~~  
14 ~~emergency sludge or septage disposal under this subsection, provide public~~  
15 ~~notice of that action. Issuance of an approval under this subsection shall~~  
16 ~~comply with section 7709 of this title.~~

17 \* \* \*

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

19 § 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

20 \* \* \*







1 after the meeting. An emergency provisional certification granted in  
2 accordance with this subsection shall be issued no more than once and shall  
3 terminate 60 days after issuance, unless the Secretary reissues the certification  
4 under this section as a provisional certification. Except as otherwise required  
5 by this subsection, an emergency provisional certification shall be subject to  
6 requirements that apply to provisional certification.

7 \* \* \*

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

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

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

16 Sec. 29. 10 V.S.A. § 6648 is amended to read:

17 § 6648. CORRECTIVE ACTION PLAN

18 \* \* \*

19 (e) ~~Prior to approval of the corrective action plan, the Secretary shall~~  
20 ~~provide notice to the public by publishing notice in a local newspaper of~~  
21 ~~general circulation where the property is located and providing written notice~~

1 ~~to the clerk for the municipality in which the property is located. The clerk~~  
2 ~~shall post the notice in a location conspicuous to the public. The Secretary~~  
3 ~~shall review any public comment submitted prior to approval of the corrective~~  
4 ~~action plan. The notice shall include all the following:~~

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

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

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

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

15 \* \* \*

16 Sec. 30. 10 V.S.A. § 7156 is amended to read:

17 § 7156. AGENCY RESPONSIBILITIES

18 \* \* \*

19 (c) ~~Public input. The Agency shall establish a process under which a~~  
20 ~~collection plan for a mercury containing lamp is, prior to plan approval or~~  
21 ~~amendment, available for public review and comment for 30 days. In~~

1 ~~establishing such a process, the Agency shall consult with interested persons,~~  
2 ~~including manufacturers, environmental groups, wholesalers, retailers,~~  
3 ~~municipalities, and solid waste districts.~~ Procedure. Before approving a  
4 collection plan under this chapter, the Secretary shall proceed in accordance  
5 with chapter 170 of this title.

6 \* \* \*

7 Sec. 31. 10 V.S.A. § 7554 is amended to read:

8 § 7554. MANUFACTURER OPT-OUT INDIVIDUAL PLAN

9 \* \* \*

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

15 \* \* \*

16 Sec. 32. 10 V.S.A. § 7586 is amended to read:

17 § 7586. AGENCY RESPONSIBILITIES; APPROVAL OF PLANS

18 (a) Approval of plan. Within 90 days after receipt of a proposed primary  
19 battery stewardship plan, not including the time required for public comment  
20 under ~~subsection (c) of this section~~ chapter 170 of this title, the Secretary shall  
21 determine whether the plan complies with the requirements of section 7584 of

1 this title. If the Secretary determines that a plan complies with the  
2 requirements of section 7584 of this title, the Secretary shall notify the  
3 applicant of the plan approval in writing. If the Secretary rejects a primary  
4 battery stewardship plan, the Secretary shall notify the applicant in writing of  
5 the reasons for rejecting the plan. An applicant whose plan is rejected by the  
6 Secretary shall submit a revised plan to the Secretary within 45 days of  
7 receiving notice of rejection. A primary battery stewardship plan that is not  
8 approved or rejected by the Secretary within 90 days, not including the time  
9 required for public comment under ~~subsection (e) of this section~~ chapter 170 of  
10 this title, of submission by a producer shall be deemed approved.

11 \* \* \*

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

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

4                               \* \* \*

5       Sec. 33. 29 V.S.A. § 405 is amended to read:

6       § 405. INVESTIGATION AND DETERMINATION OF PUBLIC GOOD

7       (a) ~~Written notice of each application shall be given by the department to~~  
8 ~~abutting property owners, the selectmen of the town in which the proposed~~  
9 ~~encroachment is located, and other persons as it considers appropriate.~~ ~~The~~  
10 ~~notice shall provide a brief description of the proposed encroachment and the~~  
11 ~~address where complete information about it may be obtained. Notice shall~~  
12 ~~provide not less than 10 days for the filing of written comments by any~~  
13 ~~interested persons. Upon receipt within the notice period of a request from a~~  
14 ~~municipality, or 25 or more persons in interest, the department shall hold a~~  
15 ~~public information meeting. Notice of the meeting shall be provided to anyone~~  
16 ~~required to receive notice by this subsection, to all persons who have filed~~  
17 ~~written comments within the notice period, and to other persons as the~~  
18 ~~department considers appropriate.~~ When an application is filed under this  
19 chapter, the Department shall proceed in accordance with 10 V.S.A.  
20 chapter 170.

21                               \* \* \*

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

10                                   \* \* \* Effective Dates \* \* \*

11       Sec. 34. EFFECTIVE DATES

12       This act shall take effect on July 1, 2017, except that Sec. 4 (bulletin;  
13       revision) and this section shall take effect on passage and Secs. 1 (standard  
14       procedures) and 3 (environmental notice bulletin) shall apply to the  
15       implementation of Sec. 4.