

1 **Bold** = areas of change from amendment draft 2.1

2 **Highlight** = flagged in light of Committee discussion and testimony

3

4 TO THE HONORABLE SENATE:

5 The Committee on Natural Resources and Energy to which was referred  
6 Senate Bill No. 123 entitled “An act relating to standardized procedures for  
7 permits and approvals issued by the Department of Environmental  
8 Conservation” respectfully reports that it has considered the same and  
9 recommends that the bill be amended by striking out all after the enacting  
10 clause and inserting in lieu thereof the following:

11 \* \* \* Environmental Conservation; Standard Procedures; **Administrative**

12 **Appeal** \* \* \*

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

14 CHAPTER 170. DEPARTMENT OF ENVIRONMENTAL

15 CONSERVATION; STANDARD PROCEDURES;

16 ADMINISTRATIVE APPEALS

17 Subchapter 1. General Provisions

18 § 7701. PURPOSE

19 The purpose of this chapter is to establish standard procedures for public  
20 notice, public meetings, and decisions relating to applications for permits

1 issued by the Department of Environmental Conservation, ~~and to provide for~~  
2 administrative appeals of those decisions.

3 § 7702. DEFINITIONS

4 As used in this chapter:

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

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

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

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

16 (3) “Administrative record” means the application and any supporting  
17 data furnished by the applicant; all information submitted by the applicant  
18 during the course of reviewing the application; the draft permit or notice of  
19 intent to deny the application; the fact sheet and all documents cited in the fact  
20 sheet, if applicable; all comments received during the public comment period;  
21 the recording or transcript of any public meeting or meetings held; any written

1 material submitted at a public meeting; the response to comments; the final  
2 permit; any document used as a basis for the final decision; and any other  
3 documents contained in the permit file.

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

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

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

12 (7) “Clean Water Act” means the Federal Water Pollution Control Act,  
13 33 U.S.C. § 1251 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           § 7703. RULES; ADDITIONAL NOTICE OR PROCEDURES

20           (a) Rules. **The Secretary shall adopt the rules required by this**  
21           **subsection and**

1           (1) The Secretary may adopt ~~additional~~ rules to implement this  
2           chapter.

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

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

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

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

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

3           *[deleted prior language that required Secretary to adopt rule for*  
4           *administrative appeals]*

5           (b) Additional notice.

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

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

14          § 7704. ADMINISTRATIVE RECORD

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

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

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





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

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

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

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

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

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

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

18          (b) Notice to adjoining property owners. When this chapter requires notice  
19          of an application to adjoining property owners, the applicant shall provide  
20          notice of the application by U.S. mail to all adjoining property owners, on a  
21          form developed by the Secretary, at the time the application is submitted to the

1 Secretary. The form shall state how the property owners can continue to  
2 receive notices and information concerning the project as it is reviewed by the  
3 Secretary. The applicant shall provide a signed certification to the Secretary  
4 that all adjoining property owners have been notified of the application.  
5 However, if the applicant has provided written notice to adjoining property  
6 owners as part of the preapplication engagement process for complex projects  
7 under rules adopted in accordance with subsection 7703(a) of this title, then  
8 instead of the written notice required of the applicant by this subsection, the  
9 Department shall provide notice of the application through the environmental  
10 notice bulletin to those adjoining property owners who have requested notice.

11 (c) Comment period length. When this chapter requires the Secretary to  
12 provide a public comment period, the length of the period shall be at least  
13 30 days, unless this chapter applies a different period for submitting comments  
14 on the particular type of permit.

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

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

1           (1) The Secretary shall:

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

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

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

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

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

19           (g) Response to comments. When this chapter requires the Secretary to  
20           provide a response to comments, the Secretary shall provide a response to each  
21           comment received during the comment period and the basis for the response.

1 The Secretary also shall specify each provision of the draft decision that has  
2 been changed in the final decision and the reasons for each change. The  
3 Secretary shall post the response to comments to the environmental notice  
4 bulletin and send it to all commenters.

5 (h) Final decisions; content; notice.

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

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

15 § 7712. TYPE 1 PROCEDURES

16 (a) Purpose; scope.

17 (1) The purpose of this section is to establish the public notice and  
18 comment requirements that the Department must follow when adopting general  
19 permits and considering applications for individual permits under the Clean  
20 Air Act and Clean Water Act.

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

6           (b) Notice of application.

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

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

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

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

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

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

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

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

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

11           (C) In addition to the requirements of this chapter and 3 V.S.A.  
12           § 2826, the notice from the environmental notice bulletin and the newspaper  
13           notice shall include all information required pursuant to applicable federal  
14           statute and regulation.

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

17           (e) Public meeting. On or before the end of the comment period, any  
18           person may request a public meeting on the draft decision or draft general  
19           permit issued under this section. The Secretary shall hold a public meeting at  
20           his or her discretion or whenever any person files a written request for a  
21           meeting. The Secretary shall provide at least 30 days' notice of the public

1 meeting through the environmental notice bulletin. If the notice of the public  
2 meeting is not issued at the same time as the draft decision or draft general  
3 permit, the Secretary also shall provide notice of the public meeting in the  
4 same manner as required for the draft decision or permit under subdivision (c)  
5 of this section.

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

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

17 § 7713. TYPE 2 PROCEDURES

18 (a) Purpose; scope.

19 (1) The purpose of this section is to establish the public notice and  
20 comment requirements that the Department must follow when considering  
21 applications for individual permits, except for individual permits specifically

1 listed in other sections of this subchapter, and when considering other permits  
2 listed in this section.

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

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

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

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

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

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

14 (b) Notice of application.

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

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

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



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

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

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

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

14           § 7714. TYPE 3 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 adopting general  
18           permits, except for general permits governed by section 7712 of this chapter,  
19           and when considering other permits listed in this section.

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

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

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

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

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

9                   (ii) an aquatic nuisance control permit under chapter 50 of  
10           this title;

11                   (iii) a change in treatment for a public water supply under chapter  
12           56 of this title;

13                   (iv) a collection plan for mercury-containing lamps under section  
14           7156 of this title;

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

17                   (vi) a primary battery stewardship plan under section 7586 of  
18           this title.

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

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

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

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

11       § 7715. TYPE 4 PROCEDURES

12       (a) Purpose; scope.

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

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

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

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

1                    (i) construction or operation of an air contaminant source less than  
2                    10 tons per year under chapter 23 of this title;

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

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

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

10                   (v) a medium scale composting certification under chapter 159 of  
11                   this title.

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

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

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

1     § 7716. TYPE 5 PROCEDURES

2             (a) Purpose; scope.

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

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

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

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

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

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

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

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

1        (b) 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.

4        § 7717. AMENDMENTS; RENEWALS

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

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

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

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

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

19       § 7718. EXEMPTIONS

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

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

- 1           (2) a potable water supply and wastewater permit under section 1973(j)  
2 of this title;  
3           (3) a hazardous waste facility certification under section 6606 of this  
4 title; and  
5           (4) a certificate of need under section 6606a of this title.

6           *[deleted previously proposed subchapter 3, on administrative appeals]*

7           Sec. 2. RULES; EFFECT ON PROCEDURAL REQUIREMENTS

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

14                           \* \* \* Environmental Notice Bulletin \* \* \*

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

16           § 2826. ENVIRONMENTAL NOTICE BULLETIN; PERMIT HANDBOOK

17           (a) The Secretary shall establish ~~procedures for the publication of~~ an  
18 environmental notice bulletin, in order to provide for the timely public  
19 notification of permit applications, notices, comment periods, hearings, and  
20 permitting decisions. ~~The Secretary shall begin publication of the bulletin by~~  
21 ~~no later than July 1, 1995 on the Agency's website. At a minimum, the~~

1 ~~bulletin shall contain the following information:~~ The bulletin shall consist of a  
2 website and an e-mail notification system. The Secretary shall ensure that the  
3 website for the bulletin is readily accessible from the Agency’s main web page.

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

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

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

19 (4) ~~information on how to request a public hearing or meeting;~~ If an  
20 individual does not have an e-mail address, the individual may request to  
21 receive notifications through U.S. mail. On receipt of such a request, the



1 Secretary shall mail to the individual the same information that the individual  
2 would have otherwise received through an e-mail generated by the bulletin.

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

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

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

15 Sec. 4. REPORT; RULEMAKING; BULLETIN; REVISION

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

18 (b) On or before February 15, 2017, the Secretary shall report in writing to  
19 the House and Senate Committees on Natural Resources and Energy and the  
20 House Committee on Fish, Wildlife and Water Resources on the Secretary's  
21 progress in adopting the rules required by Sec. 1 of this act and revising and

1 reestablishing the environmental notice bulletin in accordance with Secs. 1 and  
2 3 of this act.

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

6 \* \* \* ~~On the Record~~ Appeals from Agency of Natural Resources to the

7 Environmental Division \* \* \*

8 *[deleted prior changes to several sections of the Environmental Division*  
9 *appeals chapter related to appeals from the hearing officer under the*  
10 *previously proposed administrative appeal process]*

11 Sec. 5. 10 V.S.A. § 8504 is amended to read:

12 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

13 *[deleted prior change to subsection (a) to reflect appeals from hearing officer*  
14 *and repeal of Public Service Board avenue of appeal]*

15 \* \* \*

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

18 (1) ~~No~~ An aggrieved person ~~may~~ shall not appeal an act or decision that  
19 was made by a District Commission unless the person was granted party status  
20 by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title,  
21 participated in the proceedings before the District Commission, and retained

1 party status at the end of the District Commission proceedings. In addition, the  
2 person may only appeal those issues under the criteria with respect to which  
3 the person was granted party status.

4 (2) An aggrieved person shall not appeal an act or decision ~~that was~~  
5 ~~made by a hearing officer of the Secretary~~ unless the person participated  
6 ~~before that officer submitted a comment to the Secretary during the~~  
7 ~~comment period, if one was provided.~~ In addition, the person may only  
8 appeal ~~those on~~ issues raised by ~~that person before the officer~~ the person's  
9 ~~comment to the Secretary.~~

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

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

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

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

21 \* \* \*

1 *[deleted proposed change to subsection (g) address on the record appeals]*

2 (h) De novo hearing.

3 (1) The Environmental Division, applying the substantive standards that  
4 were applicable before the tribunal appealed from, shall hold a de novo hearing  
5 on those issues which have been appealed, except in the case of:

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

8 (2)(B) a decision of the Commissioner of Forests, Parks and  
9 Recreation under section 2625 of this title being appealed on the record, in  
10 which case the court shall affirm the decision, unless it finds that the  
11 Commissioner did not have reasonable grounds on which to base the decision.

12 **(2) In an appeal from an act or decision of the Secretary, the**  
13 **appellant shall have the burden of persuasion.**

14 *[Note: removed all formerly proposed language from subsection (h)*  
15 *that would make appeals from DEC permits on the record]*

16 \* \* \*

17 **Sec. 6. REPEAL**

18 **10 V.S.A. § 8506 (renewable energy plant; telecommunications facility;**  
19 **appeals) is repealed. [Deleted.]**

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\* \* \* Conforming Amendments \* \* \*

Sec. 7. 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~~ 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~~

1 ~~provide an opportunity for public comment or a public informational hearing,~~  
2 ~~or both, before ruling on a proposed permit. In determining whether to provide~~  
3 ~~for comment or a meeting, the secretary shall consider the degree of toxicity of~~  
4 ~~the air contaminant and the emission rate, the proximity of the source to~~  
5 ~~residences, population centers and other sensitive human receptors, and~~  
6 ~~emission dispersion characteristics at or near the source. The secretary shall~~  
7 ~~fully consider all written and oral submissions concerning proposed permits~~  
8 ~~prior to taking final action on those proposed permits. When an application is~~  
9 ~~filed under this section, the Secretary shall proceed in accordance with chapter~~  
10 ~~170 of this title.~~

11 \* \* \*

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

13 § 556a. OPERATING PERMITS

14 \* \* \*

15 (c) ~~For air contaminant sources that have allowable emissions of more than~~  
16 ~~10 tons per year of all contaminants, excluding greenhouse gases, upon making~~  
17 ~~a determination to issue a draft permit, the secretary shall issue a notice that~~  
18 ~~includes a brief description of the source and the address where a complete~~  
19 ~~permit application and a draft permit may be reviewed, shall provide a public~~  
20 ~~comment period on all draft permits, and shall hold a public informational~~  
21 ~~meeting, if requested. The public comment period on a draft permit for a~~

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

16 \* \* \*

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

20 (1) ~~A permit being renewed shall be subject to the same procedural~~  
21 ~~requirements, including those for public participation, that apply to initial~~

1 ~~permit issuance, except that a permit being renewed shall not be subject to the~~  
2 ~~public notice and comment requirements of this chapter if all of the following~~  
3 ~~apply:~~

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

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

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

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

16 \* \* \*

17 (h)(4) ~~The secretary may issue~~ Secretary may adopt, as a rule under  
18 3 V.S.A. chapter 25, a general operating permits permit covering numerous  
19 similar sources. ~~A general permit shall be adopted as an administrative rule~~  
20 ~~under the provisions of 3 V.S.A. chapter 25. Each rule creating a general~~



1 ~~permit shall include provisions that require public notice of the fact that~~  
2 ~~specified emitters have applied for general permits.~~

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

11 \* \* \*

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

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

15 \* \* \*

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

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

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

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

5                                       \* \* \*

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

16                                       \* \* \*

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

18           § 914. WETLANDS DETERMINATIONS

19                                       \* \* \*

20           (c) ~~The Secretary shall provide by certified mail written notice of a~~  
21           ~~proposed determination to the owner of each parcel of land within or adjacent~~

1 ~~to the wetland or buffer zone in question; publish notice on the Agency~~  
2 ~~website; and provide an electronic notice to persons who have requested to be~~  
3 ~~on a list of interested persons. Such notice shall include the date of the~~  
4 ~~Secretary's proposed determination and shall provide no fewer than 30 days~~  
5 ~~from the date of the Secretary's proposed determination within which to file~~  
6 ~~written comments or to request that the Secretary hold a public meeting on the~~  
7 ~~proposed determination. The provisions of chapter 170 of this title shall apply~~  
8 ~~to issuance of determinations under this section.~~

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

12 [Repealed.]

13 \* \* \*

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

15 § 1022. APPLICATION FOR ALTERATION

16 A person proposing to change, alter, or modify the course, current, or cross  
17 section of a watercourse shall apply in writing to the ~~secretary~~ Secretary for a  
18 permit to do so. The application shall describe the location and purpose of the  
19 proposed change and shall be accompanied by the maps and plans and other  
20 information the ~~secretary~~ Secretary shall direct. ~~A conformed copy shall be~~  
21 ~~simultaneously filed with the town clerk of the town in which the proposed~~

1 ~~alteration is located, and mailed to each owner of property that abuts or is~~  
2 ~~opposite the land where the alteration is to take place. The town clerk shall~~  
3 ~~forthwith post the copy in the town office. When an application is filed under~~  
4 ~~this section, the Secretary shall proceed in accordance with chapter 170 of this~~  
5 ~~title and the requirements of this subchapter.~~

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

7 § 1023. INVESTIGATION, PERMIT

8 \* \* \*

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

14 \* \* \*

15 Sec. 13. 10 V.S.A. § 1083 is amended to read:

16 § 1083. APPLICATION

17 (a) Any person who proposes to undertake an action subject to regulation  
18 pursuant to section 1082 of this title shall apply in writing to the ~~state~~ State  
19 ~~agency having jurisdiction, and shall give notice thereof to the governing body~~  
20 ~~of the municipality or municipalities in which the dam or any part of the dam is~~  
21 ~~to be located.~~ The application shall set forth:

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\* \* \*

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 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

1 proposed project and may be consolidated with other hearings, including  
2 hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be  
3 given at least 10 days before the hearing to interested persons by posting in the  
4 municipal offices of the towns in which the project will be completed and by  
5 publishing in a local newspaper.

6 Sec. 15. 10 V.S.A. § 1100 is amended to read

7 § 1100. FEDERAL COOPERATION

8 \* \* \*

9 (4) Where cultivated agricultural lands in excess of one hundred acres  
10 are to be taken for the purposes of a flood control project, or the recreational  
11 development of the ~~state~~ State or the economy of the river basin involved may  
12 be affected thereby, ~~the department, of its own motion, may, and upon petition~~  
13 ~~to it by interested parties, shall, appoint a time and place for hearing in the~~  
14 ~~vicinity of the flood control project, hold a public information meeting after~~  
15 ~~giving notice to interested parties as it directs~~ Department shall provide notice,  
16 an opportunity to submit comments, and an opportunity to request a public  
17 meeting in accordance with section 7713 (Type 2 Procedures) of this title.  
18 ~~Upon hearing, the department~~ The Department shall determine the effect the  
19 flood control project will have upon agricultural land uses or recreational  
20 values in this ~~state~~ State, or upon the economy of the river basin involved, and  
21 report its findings and recommendations to the proper federal agency or

1 authority having the flood control project in charge for its consideration and  
2 recognition. The Department shall post its findings and recommendations as a  
3 final decision in accordance with chapter 170 of this title.

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

5 § 1252. CLASSIFICATION OF WATERS; MIXING ZONES

6 \* \* \*

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

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

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

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

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

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

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

13          ~~(7)~~(4) Determine that the creation or expansion of such a zone will not:

14   \* \* \*

15          ~~(8)~~(5) Provide a written explanation with respect to subdivisions ~~(5)~~(2)  
16          through ~~(7)~~(4) of this subsection.

17   \* \* \*

18          Sec 17. 10 V.S.A. § 1263 is amended to read:

19          § 1263. DISCHARGE PERMITS

20   \* \* \*



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

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Sec. 18. 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. 19. 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

1 corrective action. ~~The permit may be issued without prior public notice if the~~  
2 ~~nature of the emergency will not provide sufficient time to give notice;~~  
3 ~~provided that the secretary shall give public notice as soon as possible but in~~  
4 ~~any event no later than five days after the effective date of the emergency~~  
5 ~~pollution permit. The Secretary shall proceed in accordance with chapter 170~~  
6 ~~of this title. No emergency pollution permit shall be issued unless the~~  
7 ~~applicant certifies and the secretary Secretary finds that:~~

8 \* \* \*

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

10 § 1418. GROUNDWATER WITHDRAWAL PERMIT

11 \* \* \*

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

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

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

3           ~~(B) adjoining municipalities;~~

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

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

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

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

17          ~~(4) On its own motion or on receipt of a written request, the agency shall~~  
18          ~~hold a public meeting in the municipality in which the withdrawal is proposed~~  
19          ~~in order to describe the proposed project and to hear comments regarding the~~  
20          ~~proposed project. Opportunity shall be given all participants at a public~~  
21          ~~meeting to ask questions and comment on all issues involved. The agency~~

1 ~~shall prepare a responsiveness summary for each public meeting conducted.~~  
2 ~~Public notice shall be given by posting in the municipal offices of the town in~~  
3 ~~which the withdrawal is proposed and by publishing in a local newspaper at~~  
4 ~~least 10 days before the meeting.~~

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

14 \* \* \*

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

16 § 1443. INDIVIDUAL PERMIT REQUIREMENTS FOR IMPERVIOUS  
17 SURFACE OR CLEARED AREA IN A PROTECTED  
18 SHORELAND AREA

19 \* \* \*

20 (c) Permit process.

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

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

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

12   \* \* \*

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

14           § 1455. AQUATIC NUISANCE CONTROL PERMIT

15   \* \* \*

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

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\* \* \*

Sec. 23. 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. 24. 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~~

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

15 ~~(2) The Secretary shall give notice to the public of each application by a~~  
16 ~~public community system for the addition of a new type of disinfectant by~~  
17 ~~publication in a newspaper of general circulation for the area containing the~~  
18 ~~proposed system and by causing a notice to be posted in the clerk's office for~~  
19 ~~the municipality in which the system is located. The Secretary shall also give~~  
20 ~~notice to appropriate State agencies. The Secretary shall provide an~~  
21 ~~opportunity for written comment and shall, upon request, provide for a public~~



1 ~~hearing on the application before ruling on the application. The Secretary may~~  
2 ~~require the applicant to submit additional information which the Secretary~~  
3 ~~considers necessary in order to support the findings required in subsection (b)~~  
4 ~~of this section, and may refuse to grant a permit until the information is~~  
5 ~~furnished and evaluated. The Secretary may also consult with the~~  
6 ~~Commissioner of Health, as necessary, in making decisions regarding health~~  
7 ~~issues raised by the application. The Commissioner's response, if any, shall be~~  
8 ~~part of the public record for the application.~~

9 \* \* \*

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

11 § 1679. PUBLIC WATER SOURCE PROTECTION AREAS

12 \* \* \*

13 (d) ~~The Secretary shall give notice of each proposed public water source~~  
14 ~~protection area to the public by publication in a newspaper of general~~  
15 ~~circulation for the area containing the proposed protection area and by causing~~  
16 ~~a notice to be posted in the clerk's office for the municipality containing the~~  
17 ~~proposed area. The Secretary shall also give notice to adjoining landowners~~  
18 ~~and all appropriate officials of municipalities and State agencies. The~~  
19 ~~Secretary shall provide an opportunity for written comment or a public~~  
20 ~~hearing, or both, on the proposed area before designating the area. If the area~~  
21 ~~is to be classified under chapter 48 of this title, the classification procedures~~

1 ~~shall satisfy the provisions of this subsection.~~ When the Secretary proposes to  
2 designate a public water source protection area under the rules adopted  
3 pursuant to subsection (a) of this section, the Secretary shall proceed in  
4 accordance with chapter 170 of this title.

5 \* \* \*

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

7 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

8 \* \* \*

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

20 (g)(1) Notwithstanding any ~~other~~ contrary provision of this section, the  
21 Secretary may authorize the land disposal or management of sludge or septage

1 by an applicant at any certified site or facility with available capacity, provided  
2 the Secretary finds:

3 \* \* \*

4 (2) ~~The Secretary shall, following his or her issuance of approval of~~  
5 ~~emergency sludge or septage disposal under this subsection, provide public~~  
6 ~~notice of that action.~~ Issuance of an approval under this subsection shall  
7 comply with section 7716 of this title.

8 \* \* \*

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

10 § 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

11 \* \* \*

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

19 \* \* \*

1 Sec. 28. 10 V.S.A. § 6605d is amended to read:

2 § 6605d. PROVISIONAL CERTIFICATION

3 \* \* \*

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

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

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

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

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

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

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

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

5   \* \* \*

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

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

20   \* \* \*

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

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

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

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

10           § 6648. CORRECTIVE ACTION PLAN

11                                   \* \* \*

12           ~~(e) Prior to approval of the corrective action plan, the Secretary shall~~  
13 ~~provide notice to the public by publishing notice in a local newspaper of~~  
14 ~~general circulation where the property is located and providing written notice~~  
15 ~~to the clerk for the municipality in which the property is located. The clerk~~  
16 ~~shall post the notice in a location conspicuous to the public. The Secretary~~  
17 ~~shall review any public comment submitted prior to approval of the corrective~~  
18 ~~action plan. The notice shall include all the following:~~

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

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

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

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

9                                       \* \* \*

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

11       § 7156. AGENCY RESPONSIBILITIES

12                                       \* \* \*

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

21                                       \* \* \*

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

2 § 7554. MANUFACTURER OPT-OUT INDIVIDUAL PLAN

3 \* \* \*

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

9 \* \* \*

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

11 § 7586. AGENCY RESPONSIBILITIES; APPROVAL OF PLANS

12 (a) Approval of plan. Within 90 days after receipt of a proposed primary  
13 battery stewardship plan, not including the time required for public comment  
14 under ~~subsection (e) of this section~~ chapter 170 of this title, the Secretary shall  
15 determine whether the plan complies with the requirements of section 7584 of  
16 this title. If the Secretary determines that a plan complies with the  
17 requirements of section 7584 of this title, the Secretary shall notify the  
18 applicant of the plan approval in writing. If the Secretary rejects a primary  
19 battery stewardship plan, the Secretary shall notify the applicant in writing of  
20 the reasons for rejecting the plan. An applicant whose plan is rejected by the  
21 Secretary shall submit a revised plan to the Secretary within 45 days of



1 receiving notice of rejection. A primary battery stewardship plan that is not  
2 approved or rejected by the Secretary within 90 days, not including the time  
3 required for public comment under ~~subsection (e) of this section~~ chapter 170 of  
4 this title, of submission by a producer shall be deemed approved.

5 \* \* \*

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

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

17 \* \* \*

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

19 § 405. INVESTIGATION AND DETERMINATION OF PUBLIC GOOD

20 (a) ~~Written notice of each application shall be given by the department to~~  
21 ~~abutting property owners, the selectmen of the town in which the proposed~~

1     ~~encroachment is located, and other persons as it considers appropriate. The~~  
2     ~~notice shall provide a brief description of the proposed encroachment and the~~  
3     ~~address where complete information about it may be obtained. Notice shall~~  
4     ~~provide not less than 10 days for the filing of written comments by any~~  
5     ~~interested persons. Upon receipt within the notice period of a request from a~~  
6     ~~municipality, or 25 or more persons in interest, the department shall hold a~~  
7     ~~public information meeting. Notice of the meeting shall be provided to anyone~~  
8     ~~required to receive notice by this subsection, to all persons who have filed~~  
9     ~~written comments within the notice period, and to other persons as the~~  
10    ~~department considers appropriate. When an application is filed under this~~  
11    ~~chapter, the Department shall proceed in accordance with 10 V.S.A.~~  
12    ~~chapter 170.~~

13                     \* \* \*

14           (c) ~~The department shall give written notice to the applicant, the~~  
15    ~~municipality in which the encroachment is located, the abutting property~~  
16    ~~owners and other persons considered appropriate, of the action taken in~~  
17    ~~approving a permit or denying the application. Notice shall be given within~~  
18    ~~five days of taking action. The notice shall explain the reasons for the action~~  
19    ~~and shall include findings as to the effect of the encroachment on each element~~  
20    ~~of the public good set forth in subsection (b) of this section. The action of~~

1 approving or denying an application shall not be effective until 10 days after  
2 the ~~department's~~ Department's notice of action.

3 \* \* \* Effective Dates \* \* \*

4 Sec. 34. EFFECTIVE DATES

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

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

9 (2) On passage, the Secretary shall have authority to adopt rules in  
10 accordance with Sec. 1 of this act.

11  
12 (Committee vote: \_\_\_\_\_)

13 \_\_\_\_\_  
14 Senator \_\_\_\_\_  
15 FOR THE COMMITTEE