

1 **Bold** = areas of change from amendment draft 3.1

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

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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 * * *

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

13 CHAPTER 170. DEPARTMENT OF ENVIRONMENTAL

14 CONSERVATION; STANDARD PROCEDURES;

15 Subchapter 1. General Provisions

16 § 7701. PURPOSE

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

20 § 7702. DEFINITIONS

21 As used in this chapter:

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

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

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

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

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

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

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

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

9 (7) “Clean Water Act” means the Federal Water Pollution Control Act,
10 33 U.S.C. § 1251 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 § 7703. RULES; ADDITIONAL NOTICE OR PROCEDURES

17 (a) Rules.

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

20 (2) Complex projects; preapplication process. The Secretary shall adopt
21 rules to determine when a project requiring a permit is large and complex.

1 These rules shall provide that an applicant proposing such a project, prior to
2 filing an application for a permit, shall initiate a project scoping process
3 pursuant to 3 V.S.A. § 2828 or shall hold an informational meeting that is open
4 to the public. The rules shall ensure that:

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

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

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

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

1 (b) Additional notice.

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

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

10 § 7704. ADMINISTRATIVE RECORD

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

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

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

18 Subchapter 2. Standard Procedures

19 § 7711. PERMIT PROCEDURES; STANDARD PROVISIONS

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

- 1 (1) The bulletin shall generate and send an e-mail to notify:
- 2 (A) each person requiring notice under section 7712 of this chapter;
- 3 (B) the applicant;
- 4 (C) each person on an interested persons list;
- 5 (D) each municipality in which the activity to be permitted is located,
6 except for notice of a draft or final general permit; and
- 7 (E) each other person to whom this chapter directs that a particular
8 notice be provided through the bulletin.
- 9 (2) At a minimum, each notice generated by the bulletin shall contain:
- 10 (A) the name and contact information for the person at the Agency
11 processing the permit;
- 12 (B) the name and address of the permit applicant, if applicable;
- 13 (C) the name and address of the facility or activity to be permitted,
14 if applicable;
- 15 (D) a brief description of the activity for which the permit would
16 be issued;
- 17 (E) the length of the period for submitting written comments and the
18 process for submitting those comments, if applicable, and notice of the
19 requirement to submit comments during that period in order to seek
20 administrative appeal under this chapter;
- 21 (F) the process for requesting a public meeting, if applicable;

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

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

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

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

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

13 (b) Notice to adjoining property owners. When this chapter requires notice
14 of an application to adjoining property owners, the applicant shall provide
15 notice of the application by U.S. mail to all adjoining property owners, on a
16 form developed by the Secretary, at the time the application is submitted to the
17 Secretary. The form shall state how the property owners can continue to
18 receive notices and information concerning the project as it is reviewed by the
19 Secretary. The applicant shall provide a signed certification to the Secretary
20 that all adjoining property owners have been notified of the application.
21 However, if the applicant has provided written notice to adjoining property

1 owners as part of the preapplication engagement process for complex projects
2 under rules adopted in accordance with subsection 7703(a) of this title, then
3 instead of the written notice required of the applicant by this subsection, the
4 Department shall provide notice of the application through the environmental
5 notice bulletin to those adjoining property owners who have requested notice.

6 (c) Comment period length. When this chapter requires the Secretary to
7 provide a public comment period, the length of the period shall be at least
8 30 days, unless this chapter applies a different period for submitting comments
9 on the particular type of permit.

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

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

17 (1) The Secretary shall:

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

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

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

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

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

15 (g) Response to comments. When this chapter requires the Secretary to
16 provide a response to comments, the Secretary shall provide a response to each
17 comment received during the comment period and the basis for the response.
18 The Secretary also shall specify each provision of the draft decision that has
19 been changed in the final decision and the reasons for each change. The
20 Secretary shall post the response to comments to the environmental notice
21 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. The final decision also shall provide
6 notice that it may be appealed and state the period for filing an appeal and how
7 and where to file an appeal.

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

11 § 7712. TYPE 1 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 adopting general
15 permits and considering applications for individual permits under the Clean
16 Air Act and Clean Water Act.

17 (2) This section governs each application for a permit to be issued by the
18 Secretary pursuant to the requirements of the Clean Air Act and Clean Water
19 Act and to each general permit to be issued under one of those acts. However,
20 the subsection does not apply to a notice of intent under a general permit. The
21 procedures under this section shall be known as Type 1 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 7711 of this chapter:

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

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

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

19 (A) If the draft decision pertains to an application for an individual
20 permit, the Secretary shall provide notice in a daily or weekly newspaper in the
21 area of the proposed project if the project is classified as major pursuant to the

1 Clean Water Act or chapter 47 of this title or if required by federal statute or
2 regulation.

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

6 (C) In addition to the requirements of this chapter and 3 V.S.A.
7 § 2826, the notice from the environmental notice bulletin and the newspaper
8 notice shall include all information required pursuant to applicable federal
9 statute and regulation.

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

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

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

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

12 § 7713. TYPE 2 PROCEDURES

13 (a) Purpose; scope.

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

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

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

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

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

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

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

10 (b) Notice of application.

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

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

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

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

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

1 post the draft decision to the bulletin. The Secretary shall provide a public
2 comment period.

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

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

10 § 7714. TYPE 3 PROCEDURES

11 (a) Purpose; scope.

12 (1) The purpose of this section is to establish the public notice and
13 comment requirements that the Department must follow when adopting general
14 permits, except for general permits governed by section 7712 of this chapter,
15 and when considering other permits listed in this section.

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

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

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

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

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

5 (ii) an aquatic nuisance control permit under chapter 50 of
6 this title;

7 (iii) a change in treatment for a public water supply under chapter
8 56 of this title;

9 (iv) a collection plan for mercury-containing lamps under section
10 7156 of this title;

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

13 (vi) a primary battery stewardship plan under section 7586 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.

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

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

7 § 7715. TYPE 4 PROCEDURES

8 (a) Purpose; scope.

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

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

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

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

18 (i) construction or operation of an air contaminant source less than
19 10 tons per year under chapter 23 of this title;

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

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

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

8 (v) a medium scale composting certification under chapter 159 of
9 this title.

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

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

17 (d) Notice of final decision. The Secretary shall provide notice of the final
18 decision through the environmental notice bulletin and shall post the decision
19 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 Sec. 2. RULES; EFFECT ON PROCEDURAL REQUIREMENTS

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

13 * * * Environmental Notice Bulletin * * *

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

15 § 2826. ENVIRONMENTAL NOTICE BULLETIN; PERMIT HANDBOOK

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

1 website and an e-mail notification system. The Secretary shall ensure that the
2 website for the bulletin is readily accessible from the Agency's main web page.

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

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

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

18 (4) ~~information on how to request a public hearing or meeting; If an~~
19 individual does not have an e-mail address, the individual may request to
20 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. REPORTS; 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 **(d) On or before February 15, 2020, the Secretary of Natural**
7 **Resources shall submit a written report to the House and Senate**
8 **Committees on Natural Resources and Energy and the House Committee**
9 **on Fish, Wildlife and Water Resources that:**

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

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

17 **(3) provides the Secretary’s assessment of the effect of 10 V.S.A.**
18 **chapter 170 on public participation, during the preceding two calendar**
19 **years, in the review of applications and permits subject to that chapter**
20 **and the data supporting that assessment;**

1 **(4) provides:**

2 **(A) the total and annual number of appeals, during 2018 and**
3 **2019, of DEC decisions subject to 10 V.S.A. chapter 170 and how each**
4 **appeal was resolved; and**

5 **(B) a comparison with the total and annual number of appeals,**
6 **during calendar years 2015 through 2017, from DEC programs that**
7 **become subject to the procedures of 10 V.S.A. chapter 170 on January 1,**
8 **2018, and how each of those appeals was resolved;**

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

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

17 **(7) if the recommendation under subdivision (6) of this subsection is**
18 **affirmative, provides the Secretary’s recommended amendments to the**
19 **process for appealing those acts and decisions of the Secretary subject to**
20 **10 V.S.A. chapter 170.**

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

2 Division ***

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

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

6 **(1) ~~No~~ An aggrieved person may shall not appeal an act or decision**
7 **that was made by a District Commission unless the person was granted**
8 **party status by the District Commission pursuant to subdivision**
9 **6085(c)(1)(E) of this title, participated in the proceedings before the**
10 **District Commission, and retained party status at the end of the District**
11 **Commission proceedings. In addition, the person may only appeal those**
12 **issues under the criteria with respect to which the person was granted**
13 **party status.**

14 **~~(2) Notwithstanding subdivision (d)(1) of this section, However,~~**
15 **notwithstanding these limitations, an aggrieved person may appeal an act**
16 **or decision of the District Commission if the Environmental judge**
17 **determines that:**

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

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

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

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

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

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

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

17 * * * Conforming Amendments * * *

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

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

21 * * *

1 (b) The ~~secretary~~ Secretary may require an applicant to submit any
2 additional information ~~which~~ that the ~~secretary~~ Secretary considers necessary
3 to make the completeness determination required in subsection (a) of this
4 section and shall not grant a permit until the information is furnished and
5 evaluated. ~~For air contaminant sources that have allowable emissions of more~~
6 ~~than 10 tons per year of all contaminants, excluding greenhouse gases, upon~~
7 ~~making a determination to issue a draft permit, the secretary shall issue a~~
8 ~~notice that includes a brief description of the source and the address where a~~
9 ~~complete permit application and draft permit may be reviewed, shall provide a~~
10 ~~public comment period on all draft permits, and shall hold a public~~
11 ~~informational meeting, if requested. The public comment period on a draft~~
12 ~~permit for a source that has allowable emissions of more than 10 tons per year,~~
13 ~~excluding greenhouse gases, shall be 30 days if the source constitutes a major~~
14 ~~stationary source or major modification under the rules of the secretary and~~
15 ~~shall otherwise be 10 days. For air contaminant sources that have allowable~~
16 ~~emissions of less than 10 tons per year of all contaminants, the secretary may~~
17 ~~provide an opportunity for public comment or a public informational hearing,~~
18 ~~or both, before ruling on a proposed permit. In determining whether to provide~~
19 ~~for comment or a meeting, the secretary shall consider the degree of toxicity of~~
20 ~~the air contaminant and the emission rate, the proximity of the source to~~
21 ~~residences, population centers and other sensitive human receptors, and~~

1 ~~emission dispersion characteristics at or near the source. The secretary shall~~
2 ~~fully consider all written and oral submissions concerning proposed permits~~
3 ~~prior to taking final action on those proposed permits. When an application is~~
4 ~~filed under this section, the Secretary shall proceed in accordance with chapter~~
5 ~~170 of this title.~~

6 * * *

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

8 § 556a. OPERATING PERMITS

9 * * *

10 (c) ~~For air contaminant sources that have allowable emissions of more than~~
11 ~~10 tons per year of all contaminants, excluding greenhouse gases, upon making~~
12 ~~a determination to issue a draft permit, the secretary shall issue a notice that~~
13 ~~includes a brief description of the source and the address where a complete~~
14 ~~permit application and a draft permit may be reviewed, shall provide a public~~
15 ~~comment period on all draft permits, and shall hold a public informational~~
16 ~~meeting, if requested. The public comment period on a draft permit for a~~
17 ~~source that has allowable emissions of more than 10 tons per year, excluding~~
18 ~~greenhouse gases, shall be 30 days if the source is subject to subchapter V~~
19 ~~(permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and~~
20 ~~shall otherwise be 10 days. For air contaminant sources that have allowable~~
21 ~~emissions of less than ten 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~~
10 ~~chapter 170 of this title.~~

11 * * *

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

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

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

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

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

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

13 * * *

14 ~~(h)(4) The secretary may issue~~ Secretary may adopt, as a rule under
15 3 V.S.A. chapter 25, a general operating permits permit covering numerous
16 similar sources. ~~A general permit shall be adopted as an administrative rule~~
17 ~~under the provisions of 3 V.S.A. chapter 25. Each rule creating a general~~
18 ~~permit shall include provisions that require public notice of the fact that~~
19 ~~specified emitters have applied for general permits.~~

20 ~~(2) Each rule creating a general permit shall provide a process by which~~
21 ~~interested persons can obtain detailed information about the nature and extent~~

1 ~~of the activity proposed to receive a general permit, and a process by which~~
2 ~~aggrieved persons can obtain an opportunity to be heard on a request that the~~
3 ~~general permit be issued only subject to specific conditions to limit or mitigate~~
4 ~~the effects of the emissions in question. Based on information presented at~~
5 ~~such a hearing, an applicant may be required to obtain a permit other than a~~
6 ~~general permit, or may obtain a general permit subject to specified conditions.~~

7 * * *

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

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

11 * * *

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

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

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

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

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* * *

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

* * *

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

§ 914. WETLANDS DETERMINATIONS

* * *

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

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

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

8 [Repealed.]

9 * * *

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

11 § 1022. APPLICATION FOR ALTERATION

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

1 this section, the Secretary shall proceed in accordance with chapter 170 of this
2 title and the requirements of this subchapter.

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

4 § 1023. INVESTIGATION, PERMIT

5 * * *

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

11 * * *

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

13 § 1083. APPLICATION

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

19 * * *

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

2 § 1085. NOTICE OF APPLICATION

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

7 (1) ~~For any project subject to its jurisdiction under this chapter, on the~~
8 ~~petition of 25 or more persons the department shall, or on its own motion it~~
9 ~~may, hold a public information meeting in a municipality in the vicinity of the~~
10 ~~proposed project to hear comments on whether the proposed project serves the~~
11 ~~public good and provides adequately for the public safety. Public notice shall~~
12 ~~be given by posting in the municipal offices of the towns in which the project~~
13 ~~will be completed and by publishing in a local newspaper at least 10 days~~
14 ~~before the meeting. The Department shall proceed in accordance with chapter~~
15 170 of this title.

16 (2) For any project subject to its jurisdiction under this chapter, the
17 public service board shall hold a hearing on the application. The purpose of
18 the hearing shall be to determine whether the project serves the public good as
19 defined in section 1086 of this title and provides adequately for the public
20 safety. The hearing shall be held in a municipality in the vicinity of the
21 proposed project and may be consolidated with other hearings, including

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

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

6 § 1100. FEDERAL COOPERATION

7 * * *

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

1 recognition. The Department shall post its findings and recommendations as a
2 final decision in accordance with chapter 170 of this title.

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

4 § 1252. CLASSIFICATION OF WATERS; MIXING ZONES

5 * * *

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

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

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

20 (3) ~~Forward copies of the notice, the draft permit and the description of~~
21 ~~the proposed waste management zone to any municipality and regional~~

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

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

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

8 ~~(6)~~(3) Determine that the creation or expansion of such a waste
9 management zone is in the public interest after giving due consideration to the
10 factors specified in subdivisions 1253(e)(1) through (10) of this title.

11 ~~(7)~~(4) Determine that the creation or expansion of such a zone will not:

12 * * *

13 ~~(8)~~(5) Provide a written explanation with respect to subdivisions ~~(5)~~(2)
14 ~~through (7)~~(4) of this subsection.

15 * * *

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

17 § 1263. DISCHARGE PERMITS

18 * * *

19 (b) ~~Except for applications for permission to discharge under the terms of a~~
20 ~~previously issued general permit, the secretary shall provide for notice of each~~
21 ~~application to the public and any appropriate officials of another state and the~~

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

19 * * *

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

2 § 1265. TEMPORARY POLLUTION PERMITS

3 * * *

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

13 * * *

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

15 § 1268. EMERGENCY PERMITS

16 When a discharge permit holder finds that pollution abatement facilities
17 require repairs, replacement or other corrective action in order for them to
18 continue to meet standards specified in the permit, ~~he or she~~ the holder may
19 apply in the manner specified by the ~~secretary~~ Secretary for an emergency
20 pollution permit for a term sufficient to effect repairs, replacements or other
21 corrective action. ~~The permit may be issued without prior public notice if the~~

1 ~~nature of the emergency will not provide sufficient time to give notice;~~
2 ~~provided that the secretary shall give public notice as soon as possible but in~~
3 ~~any event no later than five days after the effective date of the emergency~~
4 ~~pollution permit. The Secretary shall proceed in accordance with chapter 170~~
5 ~~of this title. No emergency pollution permit shall be issued unless the~~
6 ~~applicant certifies and the ~~secretary~~ Secretary finds that:~~

7 * * *

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

9 § 1418. GROUNDWATER WITHDRAWAL PERMIT

10 * * *

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

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

1 * * *

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

3 § 1456. AQUATIC SPECIES RAPID RESPONSE GENERAL PERMITS

4 * * *

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

13 * * *

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

15 § 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF
16 REVOCATION

17 * * *

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

19 (1) ~~The Secretary shall give notice of each application for a new source~~
20 ~~for a community or nontransient, noncommunity water system to the public by~~
21 ~~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. 24. 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. 25. 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. 26. 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. 27. 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 ~~(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. 29. 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. 30. 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. 31. 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 (c) 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 (c) 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. 32. 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 approving or denying an application shall not be effective until 10 days after
2 the ~~department's~~ Department's notice of action.

3 ***** Act 250 Jurisdictional Determinations *****

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

5 **§ 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL**
6 **DETERMINATION**

7 *******

8 **(c) With respect to the partition or division of land, or with respect to**
9 **an activity which might or might not constitute development, any person**
10 **may submit to the district coordinator an “Act 250 Disclosure Statement”**
11 **and other information required by the rules of the Board, and may**
12 **request a jurisdictional opinion from the district coordinator concerning**
13 **the applicability of this chapter. If a requestor wishes a final**
14 **determination to be rendered on the question, the district coordinator, at**
15 **the expense of the requestor and in accordance with rules of the Board,**
16 **shall publish notice of the issuance of the opinion in a local newspaper**
17 **generally circulating in the area where the land which is the subject of the**
18 **opinion is located, and shall serve the opinion on all persons listed in**
19 **subdivisions 6085(c)(1)(A) through (D) of this title. In addition, the**
20 **requestor who is seeking a final determination shall consult with the**
21 **district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list**

1 of persons who shall be notified by the district coordinator because they
2 are adjoining property owners or other persons who would be likely to be
3 able to demonstrate a particularized interest protected by this chapter
4 that may be affected by an act or decision by a District Commission.

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

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

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

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

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

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

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

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

4 ~~(i) serve the notice on all persons on the approved subdivision~~
5 ~~6085(c)(1)(E) list; and~~

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

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

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

13 § 6089. APPEALS

14 Appeals of any act or decision of a District Commission under this
15 chapter or the Natural Resources Board a district coordinator under
16 subsection ~~6007(d)~~ 6007(c) of this title shall be made to the Environmental
17 Division in accordance with chapter 220 of this title. For the purpose of
18 this section, a decision of the Chair of a District Commission under section
19 6001e of this title on whether action has been taken to circumvent the
20 requirements of this chapter shall be considered an act or decision of the
21 District Commission.

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

2 **(b) This chapter shall govern:**

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

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

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

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

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

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

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

4 **(1) The appellant shall provide notice of the filing of an appeal to**
5 **each person entitled to notice under subdivisions 6085(c)(1)(A) through**
6 **(D) of this title ~~and~~, to each person on an approved subdivision**
7 **6085(c)(1)(E) list, and to the Natural Resources Board.**

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

16 * * * Effective Dates * * *

17 **Sec. 38. EFFECTIVE DATES**

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

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

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

3

4 (Committee vote: _____)

5

6

Senator _____

7

FOR THE COMMITTEE

DRAFT