

**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**UNIFORM ENVIRONMENTAL  
ADMINISTRATIVE PROCEDURE AND  
STANDARD PROCESSES FOR NOTICE AND  
COMMENT ON ENVIRONMENTAL PERMITS**

**Proposed Rule**

**January 25, 2018**

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## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **§ 37-101. AUTHORITY AND PURPOSE**

- (a) Authority. This rule is adopted by the Secretary of the Agency of Natural Resources pursuant to the authority granted by 3 V.S.A. § 847(e) and 10 V.S.A. §§ 7703 (standard procedures for environmental permitting).
- (b) Purpose. This rule is intended to:
  - (1) Provide uniform standards for the implementation of 3 V.S.A. Chapter 25 (the Vermont Administrative Procedures Act) within the Department of Environmental Conservation.
  - (2) Implement the requirements of 10 V.S.A. Chapter 170 (Standard Procedures for notice and comment on environmental permits) within the Department of Environmental Conservation.

### **§ 37-102. SEVERABILITY**

The provisions of any section of this rule are severable. If a court of competent jurisdiction finds that any provision of this rule is invalid or any application of this rule to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## SUBCHAPTER 2. DEFINITIONS

### § 37-201. DEFINITIONS

As used in this rule,

- (1) “Adjoining property owner” means a person who owns land in fee simple, if that land:
  - (A) shares a property boundary with a tract of land where proposed or actual activity regulated by the Department is located. With respect to activities proposed or taking place on a lake shoreline, “adjoining property owner” means tracts of land on the terrestrial boundary of the shoreland; or
  - (B) is adjacent to a tract of land where such activity is located and the two properties are separated only by a river, stream, or public highway.
- (2) “Administrative amendment” means an amendment to an individual permit, general permit, or notice of intent under a general permit that corrects typographical errors, changes the name or mailing address of a permittee, or makes other similar changes to a permit that do not require technical review of the permitted activity or the imposition of new conditions or requirements.
- (3) “Administrative record” means the application and any supporting data and information furnished by the applicant; all information submitted by the applicant during the course of reviewing the application; the draft permit or notice of intent to deny the application; the fact sheet and all documents cited in the fact sheet, if applicable; all comments received during the public comment period; the recording or transcript of any public meeting or meetings held; any written material submitted at a public meeting; the response to comments; the final permit; any document used as a basis for the final decision; and any other documents contained in the permit file.
- (4) “Administratively complete application” means an application for a permit or notice of intent under a general permit for which all initially required documentation has been submitted, and any required permit fee, and the information submitted initially addresses all application requirements but has not yet been subjected to a complete technical review. For purposes of a general permit, it shall be considered administratively complete when the draft general permit has been placed on public notice.

- (5) “Agency” means the Agency of Natural Resources.
- (6) “Clean Air Act” means the federal statutes on air pollution prevention and control, 42 U.S.C. § 7401 et seq.
- (7) “Clean Water Act” means the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.
- (8) “Commissioner” means the Commissioner of Environmental Conservation or the Commissioner’s designee.
- (9) “Contested case” means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by the Agency after an opportunity for hearing.
- (10) “Department” means the Department of Environmental Conservation.
- (11) “Document” means any written or recorded information, regardless of physical form or characteristics, which the Department produces or acquires in the course of reviewing an application for a permit.
- (12) “Environmental notice bulletin” or “bulletin” means the website and e-mail notification system required by 3 V.S.A. § 2826.
- (13) “Fact sheet” means a document that briefly sets forth the principal facts and the significant factual, legal, methodological, and policy questions and information considered in preparing a draft decision.
- (14) “General permit” means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire State or a region of the State.
- (15) “Individual permit” means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.
- (16) “Major amendment” means an amendment to an individual permit or notice of intent under a general permit that necessitates technical review.
- (17) “Minor amendment” means an amendment to an individual permit or notice of intent under a general permit that requires a change in a condition or requirement, does not necessitate technical review, and is not an administrative amendment.
- (18) “Notice of intent under a general permit” means an authorization issued by the Secretary to undertake an action authorized by a general permit.
- (19) “Party” means each person or agency named or admitted as a party, or are an entitled as of right to be admitted as a party.
- (20) “Permit” includes any permit, certification, license, registration,

determination, or similar form of permission required from the Department by law. However, the term excludes a professional license issued pursuant to 10 V.S.A. Chapter 48, subchapter 3 (licensing of well drillers) and 10 V.S.A. §§ 1674 (water supply operators), 1936 (UST inspector licenses), 6607 (hazardous waste transporters), and 6607a (waste transportation).

- (21) “Person” means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State, any federal agency, or any other legal or commercial entity.
- (22) “Person to whom notice is federally required” means a person to whom notice of an application or draft decision must be given under federal regulations adopted pursuant to the Clean Air Act or Clean Water Act.
- (23) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, which is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing. “Practices” include guidance documents, policy documents, memoranda of agreement or understanding, standard operating procedures, and all other similar documents.
- (24) “Procedure” means a practice which has been signed by the Commissioner and posted in the electronic compellation under § 37-303, either at the election of the Agency or as the result of a request under § 37-302.
- (25) “Public meeting” means a meeting that is open to the public and recorded or transcribed, at which the Department shall provide basic information about the draft permit decision, an opportunity for questions to the applicant and the Department, and an opportunity for members of the public to submit oral and written comments.
- (26) “Secretary” means the Secretary of Natural Resources or designee.
- (27) “Technical review” means the application of scientific, engineering, or other professional expertise to the facts to determine whether activity for which a permit is requested meets the standards for issuing the permit under statute and rule.

## **SUBCHAPTER 3. UNIFORM ENVIRONMENTAL ADMINISTRATIVE PROCEDURE**

### § 37-301. PETITIONS FOR RULEMAKING OR ADOPTION OF PROCEDURES

- (a) Generally. Any person may submit a petition requesting that the Commissioner adopt, amend, or repeal a rule or procedure.

Note: The Commissioner is not required to file a petition to initiate the rulemaking process under 3 V.S.A. chapter 25.

- (b) Minimum requirements of a petition. At a minimum, any petition shall include:
- (1) A brief description of the reasons for adopting, amending, or repealing the rule or procedure;
  - (2) Any technical information that supports the petitioner's position with respect to the adoption, amendment, or repeal of the rule or procedure;
  - (3) A citation to the specific section or sections of Vermont statute or rule granting the Commissioner the authority to adopt, amend, or repeal the rule or procedure;
  - (4) Any supplemental information required by the statute or rule that is subject to the request;
  - (5) A list of the people, enterprises, and government entities that may be effected by the rule or procedure and an estimate of the costs and benefits to each of those entities;
  - (6) Contact information for the petitioner, including an e-mail address; and
  - (7) A written draft of the proposed rule or procedure. If the rule or procedure is existing, all language that the petitioner proposes to add shall be underlined and all language that the petitioner proposes to delete shall be struck through.
- (c) Department response. Within 30 days of receipt of a petition, the Commissioner shall:
- (1) Initiate rulemaking proceedings or adopt a procedure. Initiating rulemaking means prefiling the administrative rule with the interagency committee on administrative rules; or
  - (2) Deny the petition and provide the basis of the denial in writing.



§ 37-302. PROCEDURES

The Department shall maintain an electronic compilation of all procedures on the Department webpage. The compilation shall be organized by subject and contain the date the procedure was adopted. Each addition, change, or deletion to the official compilation shall also be signed, dated, indexed, and recorded. The most recently dated procedure shall be the effective procedure. Any procedure that does not appear in the electronic compilation shall no longer be effective.

§ 37-303. ADMINISTRATIVE CONTINUATION OF PERMITS

- (a) Generally. When a permittee has submitted an administratively complete application for the renewal of a permit or for an activity of a continuing nature prior to the expiration of that permit, the existing permit shall not expire until the Secretary has made a final determination with respect to the application, and in case the application is denied or the terms of the new permit limited, until the last day for seeking review of the permit or a later date fixed by order of the reviewing court. For purposes of this section, a “activity of a continuing nature” means a permit that authorizes the continued operation of a permitted activity but does not include a permit to construct a new, or the expansion of an existing, activity.
- (b) As applied to general permits. When the Secretary has placed on public notice a draft general permit, the current general permit shall be considered administratively continued.

§ 37-304. VESTING OF RIGHTS IN A STATUTE OR RULE ADMINISTERED BY THE AGENCY OF NATURAL RESOURCES

Vesting of rights. Unless otherwise provided in a rule adopted by the Department, the statutory and regulatory requirements applicable to a permit shall be those in effect on the date that the Department’s draft decision is issued.

## **SUBCHAPTER 4. CONTESTED CASE PROCEEDINGS**

### **§ 37-401. APPLICABILITY**

This subchapter shall apply to the revocation of a permit and for any other proceeding where a contested case proceeding is required by law.

### **§ 37-402. HEARING OFFICER.**

The Commissioner shall appoint a hearing officer to preside over the contested case proceeding. At the time the Commissioner appoints a hearing officer, the Commissioner shall either delegate authority to the hearing officer to issue a ruling in the proceeding or retain decision making authority. If the Commissioner retains decision making authority, the same restrictions that apply to the hearing officer shall apply to the Commissioner. A person who has been personally and substantially involved at any stage of the matter subject to the proceeding shall be disqualified from serving as a hearing officer.

### **§ 37-403. EX PARTE COMMUNICATIONS.**

The hearing officer shall not communicate with any person who is a party to the proceeding concerning an active proceeding without notice and opportunity for all parties to participate in the communication. This prohibition on ex parte communication shall not apply to:

- (1) Communications between the hearing officer and the Commissioner;
- (2) Communications between the hearing officer, including the Commissioner, and counsel authorized to provide legal advice with respect to the matter subject to the proceeding; or
- (3) Communications between the hearing officer or the Commissioner and an Department employee, provided:
  - (A) the Department employee has not been personally and substantially involved at any stage with respect to the subject matter of the proceeding;
  - (B) the Department employee has not communicated with any other person with respect to the subject matter of the proceeding; and
  - (C) the communication with the Department employee does not augment, diminish, or modify the hearing record and:
    - (i) is an explanation of technical or scientific basis of evidence in the hearing record; or

- (ii) is an explanation of precedent, policies, or procedures of the Department.

§ 37-404. INITIATION OF PROCEEDING AND ENTRY OF APPEARANCE

- (a) Initiation of proceeding.
  - (1) Generally. Initiation of a contested case shall be governed by the law that requires a contested case proceeding for that decision of the Commissioner, except for decision by the Commissioner to revoke a permit.
  - (2) Revocations. The Commissioner may initiate a contested case to revoke a permit by notifying the permittee that a revocation proceeding has been initiated, by notifying the permittee of the opportunity to participate in the proceeding, and by providing a brief summary of the factual basis of the grounds for initiating the proceeding to the permittee. A revocation proceeding may be initiated by the Commissioner on the following grounds:
    - (A) a violation of a permit condition;
    - (B) false or misleading information was provided in support of a permit application;
    - (C) a violation of the rules or authorizing statutes governing the activity that is subject to the proceeding;
    - (D) specific grounds for revocation identified in the rules governing the activity has occurred; or
    - (E) the holder of the permit has requested that it be revoked.
  - (3) A permittee may waive the right to a contested case proceeding. A waiver shall be in writing and shall be signed by all co-permittees to the permit requested to be revoked.
- (b) Necessary parties. The person initiating a proceeding shall provide notice to all persons whose participation is required for the Department to provide relief in the proceeding or any person who has a legal interest related to the subject of the proceeding and a failure to participate in the proceeding could result in that person being unable to protect that legal interest. In all cases a permittee and any person whose property is affected by the decision shall be provided notice under this section.
- (c) Initial notice of proceeding. For all contested case proceedings, the Department shall provide notice to all parties of, at a minimum, the following:

- (1) The time, method, and location of an initial conference to be provided pursuant to § 37-405;
  - (2) A statement of the legal authority and jurisdiction governing the proceeding;
  - (3) A reference to the applicable sections of statute or rule that require a contested case; and
  - (4) A short, plain statement of the matters at issue. The statement shall be as detailed as possible in light of the information available at the time of the notice.
- (d) **Entry of Appearance.** Any person may enter an appearance to participate in a contested case proceeding by filing a written notice within 14 days of receiving the initial notice of the proceeding with the Commissioner that identifies the following information. Upon receipt by the Commissioner of a notice by a person, the person shall be treated as a party unless and until the Commissioner rules the party does not have party status in response to an objection made pursuant to § 37-405.
- (1) The name of the person entering an appearance;
  - (2) The name of any person representing the person requesting to enter an appearance;
  - (3) Contact information of the person entering an appearance, including the e-mail address where notices, filings, and other information shall be sent. If e-mail notice is refused, the person shall provide a mailing address for all notices, filings, and other information to be sent.
  - (4) A statement on how the interests of the person entering an appearance are or may be affected by the subject matter and will be affected by the potential outcome of the proceeding.
- Note: If the case is a revocation and the person holding the permit fails to enter an appearance the Commissioner may enter a default order revoking the permit.
- (e) **Service.** Copies of all documents filed in a proceeding shall be served upon all other parties to the proceeding by the party making the filing. Service shall be made by emailing copies of the documents, or, if email service has been refused, by mailing physical copies, to each party's attention using the contact information as provided in each party's entrance of appearance. The party filing the document shall certify to the hearing officer that they have served all other parties with the document filed in accordance with this section.

§ 37-405. INITIAL CONFERENCE AND SCHEDULING ORDER

- (a) Initial Conference. Within 21 days of the initial notice of the proceeding required by § 37-404, the hearing officer shall hold an initial conference with the parties. The primary purposes of this conference include:
  - (1) The simplification and clarification of the issues in the proceeding;
  - (2) Obtaining admissions of fact and of documents that will avoid the production of unnecessary proof;
  - (3) The limitation of the number of expert witnesses; and
  - (4) The formulation of a scheduling order for the proceeding.
  
- (b) Party status. Any objection to a person's party status and ability to appear in a proceeding shall be made in advance of the initial conference or five days from the party in question's entry of appearance, whichever is later. The Commissioner shall rule on the objection and person's party status within 10 days.
  
- (c) Scheduling Order.
  - (1) The parties to a proceeding shall provide the hearing officer with a mutually agreed upon scheduling order at the pretrial conference. At a minimum, the scheduling order shall:
    - (A) Identify the date or dates by which all motions must be filed, except motions related to subject matter jurisdiction;
    - (B) Identify the type, sequence, and amount of discovery in the proceeding, limiting the discovery to that which is necessary for a full and fair determination of the proceeding;
    - (C) Identify the date or dates for filing prefiled testimony or any stipulated facts;
    - (D) Identify the date or dates for filing rebuttal prefiled testimony;
    - (E) Identify whether an oral argument is required for the proceeding and if so the date for that oral argument; and
    - (F) Identify the date or dates that any final briefs are due.
  
  - (2) If the parties are unable to reach agreement on a scheduling order either in part or in whole, by the date of the pretrial conference, the hearing officer may impose a deadline for reaching an agreement on the scheduling order, or may enter a scheduling order for the proceeding.

§ 37-406. DOCUMENTS AND SERVICE

- (a) All materials filed in a proceeding are considered filed when received by the hearing officer.
- (b) All materials must be signed by the party offering the document to the hearing officer or an attorney representing the party.
- (c) Service of all documents shall be through e-mail unless the party rejects electronic service, in which case service shall be made through U.S. Mail.
- (d) All materials filed with the hearing officer shall comply with the following page limits:
  - (1) Motions: No more than 10 pages.
  - (2) Memoranda, briefs, pleadings, and any other document not expressly identified in this subsection: No more than 15 pages.
  - (3) Reply memoranda, reply briefs: No more than 15 pages.
  - (4) Proposed findings of fact and conclusions of law: No more than 10 pages.
  - (5) Prefiled testimony, rebuttal prefiled testimony: No limitation on testimony or exhibits, unless established in scheduling order for the proceeding.
- (e) All proposed findings of fact and conclusions of law shall cite to the supporting evidence in the proceeding record and discuss the applicable legal provisions showing how each element of a claim is met or not met based on the facts of the proceeding.

§ 37-407. EVIDENCE AND PREFILED TESTIMONY

- (a) Generally. Evidentiary matters are governed by 3 V.S.A. § 810.
- (b) Prefiled testimony shall be in question and answer form. Its form and content shall be such as would entitle the same oral testimony to be admitted in proceedings before the hearing officer. Such testimony shall be typed and double spaced. Line numbers shall be placed in the left hand margin of each page.

- (c) Prefiled testimony shall be accompanied by a signed and notarized certification with the following certification from the witness:  
“I [insert witness name] swear that I prepared the prefiled testimony, that the responses to all these questions are my own, and that my testimony is accurate and truthful. I also understand that if I intentionally provide inaccurate or untruthful testimony I subject myself to prosecution pursuant to 13 V.S.A. § 3016 (False Claim).”
- (d) Any witness offering prefiled testimony must be available to appear at a hearing.

§ 37-408. HEARING

- (a) Any party to a proceeding may petition the hearing officer to hold a hearing with respect to the matters at issue. The hearing officer shall hold a hearing to allow the parties to make argument as to any prefiled testimony presented to the hearing officer.
- (b) A hearing officer shall only hold an evidentiary hearing when it is necessary for a full and true disclosure of the facts or when a hearing will materially advance the hearing officer’s understanding of the matters at issue or at the hearing officer’s discretion. At a minimum, the hearing officer shall consider the following when determining whether a hearing is necessary:
  - (1) the credibility or veracity of a witness that filed prefiled testimony.
  - (2) the bias or other relationship that the person who filed prefiled testimony may have with respect to the matter.
- (c) All testimony offered in a hearing shall be made under oath or affirmation.

§ 37-409. PROCEEDING RECORD

- (a) At a minimum, the proceeding record shall contain:
  - (1) all pleadings, motions, and intermediate rulings;
  - (2) all evidence received or considered;
  - (3) a statement of matters officially noticed;
  - (4) questions, offers of proof, objections, and rulings thereon;
  - (5) proposed findings of fact and conclusions of law; and
  - (6) any decision, opinion, or report.

- (b) The hearing officer may take official notice of all facts of which judicial notice may be taken and of scientific, technical, or other facts within the specialized knowledge of the Department. The hearing officer shall notify parties at the earliest practical time of the facts proposed to be noticed and their source, including any staff memoranda or data. The party shall have the opportunity to contest any fact officially noticed prior to the finalization of the decision.
- (c) Any portion of an oral proceeding shall be transcribed. The party that petitioned for the hearing shall pay for the costs of transcription. If more than one party petitioned for a hearing, the costs shall be split equally between the petitioning parties.

§ 37-410. DECISIONS AND ORDERS

- (a) The experience, technical competence, and specialized knowledge of the hearing officer that is hearing the case may be used in evaluating the evidence in the hearing record.
- (b) Any decision or order shall be in writing, and include findings of fact and conclusions of law, separately stated and identified. Decisions and orders shall be based exclusively on the proceeding record.
- (c) If the hearing officer has been delegated authority to make a final decision, the written decision or order of the hearing officer shall take effect upon service to the parties.
- (d) If the hearing officer has not been delegated authority to make the final decision, the hearing officer shall provide a copy of the proposed order or decision to each party and the Commissioner, and the Commissioner shall render a final decision in accordance with subsection (e) of this section.
- (e) Decisions made by the Commissioner.
  - (1) When the Commissioner reviews a hearing officer's proposed order or decision, the Commissioner shall review the proposed decision or order as if the Commissioner conducted the proceeding.
  - (2) When reviewing findings of fact, the Commissioner shall consider the hearing officer's opportunity to observe the witnesses and determine their credibility.
  - (3) The parties shall be afforded an opportunity to present briefs and oral argument to the Commissioner prior to the decision.



- (4) The Commissioner may render a final decision or order on the proceeding or remand the matter to the hearing officer with instructions for further action.
  - (5) The final decision or order must identify the differences between the proposed decision or order and the final. A written decision or order of the Commissioner shall take effect upon service to the parties.
- (f) Any decision or order, including any intermediate order or ruling issued by the hearing officer, shall be served on the parties in in the same manner as § 37-406(c) and shall constitute actual knowledge to the parties.

§ 37-411. EMERGENCY PROCEEDINGS.

If the Commissioner determines that an activity of an ongoing nature presents an immediate and substantial endangerment to human health, safety, or welfare or the environment, the Commissioner may temporarily suspend the activity authorized by the permit or license until a proceeding to revoke the license or permit has been completed.

## **SUBCHAPTER 5. STANDARD PROCEDURES FOR PERMIT PROCESSING**

### § 37-501. PURPOSE.

- (a) Permit proceedings under this subchapter are informal adjudications of applications for a permit under the authorities listed pursuant to Appendix A.

Note: All Permit decisions of the Department follow the procedures outlined in this subchapter. Unless required by law, Department permits do not follow a contested case procedure.

- (b) The Secretary may adopt a procedure for any permit not included in Appendix A defining on an interim basis what standard procedure applies to decision-making for that permit.

### § 37-502. COMPUTATION OF TIME

In this subchapter:

- (1) When time is to be reckoned from a day, date, or an act done, the day, date, or day when the act is done shall not be included in the computation.
- (2) Computation of a time period shall use calendar days.

### § 37-503. ENVIRONMENTAL NOTICE BULLETIN.

- (a) When notice is required by this subchapter, at a minimum the following persons shall receive notice from the Environmental Notice Bulletin:
  - (1) the applicant;
  - (2) any person who has requested to receive notice through the ENB;
  - (3) each municipality in which the activity to be permitted is located, except for notice of a draft or final general permit; and
  - (4) each other person to whom this subchapter directs that a particular notice be provided through the bulletin.
- (b) At a minimum, each notice generated by the bulletin shall contain:
  - (1) the name and contact information for the person at the Agency processing the permit;

- (2) the name and address of the facility or activity to be permitted, if applicable;
  - (3) a brief description of the activity for which the permit would be issued;
  - (4) the length of the period for submitting written comments and the process for submitting those comments, if applicable, and notice of the requirements regarding submission of comments during that period or at a public meeting in order to appeal under chapter 220 of this title;
  - (5) the process for requesting a public meeting, if applicable;
  - (6) when a public meeting has been scheduled, the time, date, and location of the meeting and a brief description of the nature and purpose of the meeting;
  - (7) when issued, the draft permit or notice of intent to deny a permit, and the period and process for submitting written comments on that draft permit or notice;
  - (8) when issued, the final decision issuing or denying a permit, and the process for appealing the decision; and any other information that this chapter directs be included in a particular notice to be generated by the bulletin.
- (c) With respect to notice and a public meeting, the Secretary shall:
- (1) provide at least 14 days' prior notice of the public meeting through the environmental notice bulletin, unless this subchapter specifies a different notice period for a public meeting on the particular type of permit;
  - (2) include in the notice, in addition to the information required by subsections (b)-(d) of this section, the date the Secretary gave notice of an administratively complete application, if applicable; and
  - (3) hold the period for written comments open for at least seven days after the meeting.
- (d) Notice to adjoining property owners. When this subchapter requires notice of an application to adjoining property owners, the applicant shall provide notice of the application by U.S. mail to all adjoining property owners, on a form developed by the Secretary, at the time the application is submitted to the Secretary. The form shall state how the property owners can continue to receive notices and information concerning the project as it is reviewed by the Secretary. The applicant shall provide a signed certification with the application materials submitted to the Secretary that all adjoining property owners have been notified of the application. However, if the applicant has provided written notice to adjoining property owners as part of the

preapplication engagement process for complex projects under rules adopted in accordance with §37-509, then instead of the written notice required of the applicant by this subsection, the Department shall provide notice of the application through the environmental notice bulletin to those adjoining property owners who have requested electronic notice.

- (e) If an individual does not have an e-mail address, the individual may request to receive notifications through U.S. mail. On receipt of such a request, the Secretary shall mail to the individual the same information that the individual would have otherwise received through electronic notice through the bulletin.
- (f) Response to comments. When this subchapter requires the Secretary to provide a response to comments, the Secretary shall provide a response to each comment received during the comment period and the basis for the response. The Secretary also shall specify each provision of the draft decision that has been changed in the final decision and the reasons for each change. The Secretary shall post the response to comments to all persons requesting to receive notice through the bulletin.
- (g) Final decisions; content; notice.
  - (1) The Secretary's final decision on an application for a permit or on the issuance of a general permit shall include a concise statement of the facts and analysis supporting the decision that is sufficient to apprise the reader of the decision's factual and legal basis. The final decision also shall provide notice that it may be appealed and state the period for filing an appeal and how and where to file an appeal.
  - (2) When this chapter requires that the Secretary post a final decision to the environmental notice bulletin, the Secretary also shall send a copy of the final decision to all persons requesting to receive notice through the bulletin.

§ 37-504. TYPE 1 PROCEDURES

- (a) Purpose; scope.
  - (1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when

adopting general permits and considering applications for individual permits under the Clean Air Act and Clean Water Act.

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

(b) Notice of Application.

- (1) The applicant shall provide notice to adjoining property owners on a form developed by the Secretary. The applicant shall provide this notice by U.S. Mail. The notice shall be provided at the same time the application is provided to the Secretary.
- (2) The applicant shall provide a signed certification to the Secretary that all adjoining property owners have been notified of the application with the application materials submitted to the Secretary.
- (3) If an application is a large and complex project, notice needs to have been provided pursuant to § 37-509 (pre-application public meeting). When the applicant files the application with the Secretary, the applicant shall certify notice was provided as required by § 37-507(c).
- (4) The Secretary shall provide notice of the application through the environmental notice bulletin when the application is deemed administratively complete.
- (5) This subsection shall not apply to general permits issued pursuant to this section.
- (6) If the permit application may affect a Class I Area as defined in the Clean Air Act, the Federal Land Manager shall be notified within 30 days of receipt of the application by the Secretary.

(c) Notice of Draft Decision, Public Comment Period, Public Informational Meeting.

- (1) The Secretary shall not issue a draft decision unless the application has been noticed as administratively complete for at least 15 days. This requirement shall not apply to general permits.
- (2) Notice of Draft Decision.
  - (A) Notice applicable to all permits. When the Secretary has issued a draft decision, the Secretary shall provide notice through the

environmental notice bulletin of the draft decision. At a minimum, the notice shall include: the draft decision, and any required fact sheet associated with the draft decision. The notice shall also include how to request copies of the complete record associated with the application.

- (B) Additional notice requirements applicable to Clean Water Act (CWA) draft decisions.
  - (i) Notice applicable to all CWA draft decisions. Notice shall be provided to all persons identified in 40 C.F.R. § 124.10(c) as requiring notice of NPDES permits.
  - (ii) Notice applicable to CWA draft decisions on individual permits. Notice shall include a general description of the location of each existing or proposed discharge point and the name of the immediate receiving water.
  - (iii) Notice applicable to CWA draft decisions on general permits and major individual permits. For a general permit, notice shall be provided in daily or weekly newspapers in each region of the State to which the general permit will apply, and for a major individual permit, notice shall be provided in daily or weekly newspapers in the area of the proposed project.
  - (iv) Notice applicable to CWA draft decisions on cooling water intake structures under section 316(b) of the CWA. Notice shall comply with 40 C.F.R. Part 125, Subparts I, J, and N.
- (C) Notice applicable to Clean Air Act Construction Permits. For a notice issued on a permit that is required to comply with 40 C.F.R. Part 51, the Secretary shall provide the notice to the applicant, the Environmental Protection Agency Regional Administrator, and to officials and agencies having cognizance over the location where the proposed construction would occur, including: any other State or local air pollution control agencies, the chief executives of the city or town and county where the source would be located, any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification. The notice shall include, if applicable, the degree of increment consumption that is expected from the source or modification.
- (D) Notice applicable to Clean Air Act Operating Permits. For a notice issued on a permit that is required to comply with 40

C.F.R. Part 70, the Secretary shall provide the notice to any states affected by the source. The notice shall also include any emissions change proposed in any application for an operating permit amendment.

- (3) Fact sheets. When required under 40 C.F.R. 124.8, the Secretary shall produce a fact sheet and place it on notice with the draft decision
  - (4) After notice is provided, the Secretary shall provide a public comment period on the draft decision for no less than 30 days.
  - (5) Any person may request a public informational meeting within 30 days of the notice of the draft decision. If a public informational meeting is requested the Secretary shall provide 30 days' notice of the location, date, and time of the public informational meeting. The notice shall be provided to all persons who received notice of the draft decision through the environmental notice bulletin. When a public informational meeting is held, the public comment period shall not end until at least seven days following the public informational meeting.
- (d) Final Decisions. When the Secretary issues a final decision on an application or general permit, the Secretary shall post a copy on the environmental notice bulletin of the final decision or final general permit, the final fact sheet, a response to comments, and the Secretary shall show any changes made in response to the comments to the permit between the draft and final permit. The electronic notice bulletin shall send this information to any person that all persons requested to receive notice through the bulletin.

§ 37-505. TYPE 2 PROCEDURES

- (a) Purpose; scope.
  - (1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering applications for individual permits, except for individual permits specifically listed in other sections of this subchapter, and when considering other permits listed in this section.
  - (2) The procedures under this section shall be known as Type 2 Procedures. This section governs an application for each of the following:
    - (A) an individual permit issued pursuant to the Secretary's authority under Title 10 of the Vermont Statutes and 29 V.S.A. chapter 11, except for permits governed by §§ 37- 504 and 506 - 508;

- (B) a wetland determination under 10 V.S.A. § 914;
- (C) an individual shoreland permit under 10 V.S.A chapter 49A;
- (D) a public water system source permit under 10 V.S.A. § 1675;
- (E) a provisional certification issued under section 10 V.S.A. § 6605d; and
- (F) a corrective action plan under 10 V.S.A. § 6648.

(b) Notice of Application.

- (1) The applicant shall provide notice to adjoining property owners on a form developed by the Secretary. The applicant shall provide this notice by U.S. Mail. The notice shall be provided at the same time the application is provided to the Secretary.
- (2) For public water system source protection areas, the applicant also shall provide notice to all property owners located in:
  - (A) zones 1 and 2 of the source protection area for a public community water system source; or
  - (B) the source protection area for a public nontransient noncommunity water system source.
- (3) For individual shoreland permits under chapter 49A, aquatic nuisance control permits for activities taking place on a shoreline, and lake encroachment activities :
  - (A) The notice to adjoining property owners shall be to the adjoining property owners on the terrestrial boundary of the shoreland.
  - (B) This chapter does not require notice to owners of property across the lake as defined in that chapter.
- (4) The applicant shall provide a signed certification to the Secretary that all adjoining property owners have been notified of the application with application materials submitted to the Secretary.
- (5) If an application is a large and complex project, notice needs to have been provided pursuant to § 37-509 (pre-application public meeting). When the applicant files the application with the Secretary, the Applicant shall certify notice was provided as required by § 37-507(c).
- (6) The Secretary shall provide notice of the application through the environmental notice bulletin when the application is deemed administratively complete.

(c) Notice of Draft Decision, Public Comment Period, Public Informational Meeting.



- (1) When the Secretary has issued a draft decision, the Secretary shall provide notice through the environmental notice bulletin of the draft decision. At a minimum, the Secretary shall post the draft decision and how to request copies of the complete record associated with the application.
  - (2) After notice is provided, the Secretary shall provide a public comment period on the draft decision for no less than 30 days.
  - (3) Any person may request a public informational meeting within 14 days of the notice to the environmental notice bulletin. If a public informational meeting is requested the Secretary shall provide 14 days' notice of the location, date, and time of the public informational meeting. The notice shall be provided to all persons who received notice of the draft decision through the environmental notice bulletin. When a public informational meeting is held, the public comment period shall not end until at least seven days following the public informational meeting.
- (d) Final Decisions. When the Secretary issues a final decision on an application, the Secretary shall post a copy on the environmental notice bulletin of the of the final decision, a response to comments, and the Secretary shall show any changes made in response to the comments to the permit between the draft and final permit. The electronic notice bulletin shall send notice of availability this information to any person that requested to receive notice through the bulletin.

§ 37-506. TYPE 3 PROCEDURES

- (a) Purpose; scope.
  - (1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by § 37-504 of this chapter, and when considering other permits listed in this section.
  - (2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:
    - (A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to §37-504. This section does not apply to a notice of intent under a general permit.

- (B) Issuance of a dam safety order under 10 V.S.A. chapter 43, except for an unsafe dam order under 10 V.S.A. § 1095.
  - (C) An application or request for approval of:
    - (i) an aquatic nuisance control permit under chapter 50 of this title;
    - (ii) a change in treatment for a public water supply 10 V.S.A. chapter 56;
    - (iii) a collection plan for mercury-containing lamps under 10 V.S.A. § 7156 of this title;
    - (iv) an individual plan for the collection and recycling of electronic waste under 10 V.S.A. § 7554; and
    - (v) a primary battery stewardship plan under 10 V.S.A. § 7586.
- (b) Notice of Application. The Secretary shall provide notice of the application through the environmental notice bulletin when the application is deemed administratively complete.
- (c) Notice of Draft Decision, Public Comment Period, Public Informational Meeting.
- (1) When the Secretary has issued a draft decision, the Secretary shall provide notice through the environmental notice bulletin of the draft decision. At a minimum, the notice shall include: the draft decision, and include how to request copies of the complete record associated with the application.
  - (2) After notice is provided, the Secretary shall provide a public comment period on the draft decision for no less than 30 days.
  - (3) Any person may request a public informational meeting within 14 days of the notice to the environmental notice bulletin. If a public informational meeting is requested the Secretary shall provide 14 days' notice of the location, date, and time of the public informational meeting. The notice shall be provided to all persons who received notice of the draft decision through the environmental notice bulletin. When a public informational meeting is held, the public comment period shall not end until at least seven days following the public informational meeting.
- (d) Final Decisions. When the Secretary issues a final decision on an application, the Secretary shall post a copy on the environmental notice bulletin of the of the final decision, a response to comments, and the

Secretary shall show any changes made in response to the comments to the permit between the draft and final permit. The electronic notice bulletin shall send this information to any person requested to receive notice through the bulletin.

§ 37-507. TYPE 4 PROCEDURES

- (a) Purpose; scope.
  - (1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering applications for notice of intent under a general permit and other permits listed in this section.
  - (2) The procedures under this section shall be known as Type 4 Procedures. This section applies to each of the following:
    - (A) a notice of intent under a general permit issued pursuant to the Secretary's authority under this title; and
    - (B) an application for each of following permits:
      - (i) construction or operation of an air contaminant source or class of sources not identified in the State's implementation plan approved under the Clean Air Act;
      - (ii) construction or expansion of a public water supply under 10 V.S.A. chapter 56, except that a change in treatment for a public water supply shall proceed in accordance with 10 V.S.A. § 7714;
      - (iii) a category 1 underground storage tank under 10 V.S.A. chapter 59 of this title;
      - (iv) a categorical solid waste certification under 10 V.S.A. chapter 159; and
      - (v) a medium scale composting certification under 10 V.S.A. chapter 159.
- (b) Notice of Application. The Secretary shall provide notice of the application through the environmental notice bulletin when the application is deemed administratively complete.
- (c) Notice of Draft Decision, Public Comment Period.
  - (1) When the Secretary has issued a draft decision, the Secretary shall provide notice through the environmental notice bulletin of the draft decision. At a minimum, the notice shall include: the draft decision,

and how to request copies of the complete record associated with the application.

- (2) After notice is provided, the Secretary shall provide a public comment period on the draft decision of no less than 14 days.
- (d) **Final Decisions.** When the Secretary issues a final decision on an application, the Secretary shall post a copy on the environmental notice bulletin of the of the final decision, a response to comments, and the Secretary shall show any changes made in response to the comments to the permit between the draft and final permit. The electronic notice bulletin shall send this information to any person that requested to receive notice through the bulletin.
- (e) **Additional Notice.** At any time during the review of an application, the Secretary may require that a permit being reviewed under the procedures of this section may be reviewed under § 37-504 (Type 2 Procedures). When making this determination, the Secretary may base the decision on the size, complexity, potential environmental impact, or degree of public interest associated with the project.

§ 37-508. TYPE 5 PROCEEDINGS

- (a) **Final Decisions.** When the Secretary issues a final decision on an application, the Secretary shall post a copy on the environmental notice bulletin of the of the final decision.
- (b) **Additional Notice.** At any time during the review of an application, the Secretary may require that a permit being reviewed under the procedures of this section may be reviewed under § 37-504 (Type 2 Procedures). When making this determination, the Secretary may base the decision on the size, complexity, potential environmental impact, or degree of public interest associated with the project.

§ 37-509. PRE-APPLICATION PUBLIC INFORMATIONAL MEETING

- (a) **Applicability.** This section shall apply to the permit applications identified in Appendix B of this rule.
- (b) **Informational Meeting Required.** An applicant subject to this section shall hold a pre-application public informational meeting at least 14 days before filing a permit application with the Department. The applicant shall present

an overview of the project, an overview of the permits required for the project, and respond to questions raised by meeting attendees. The applicant and the Secretary or designee shall attend the meeting. The applicant shall respond to questions from other attendees.

- (c) Notice. An applicant shall provide notice of the pre-application meeting at least 14 days prior to the meeting. The notice shall also inform interested persons how to obtain future updates on the project. At a minimum, the following parties shall be notified of the pre-application public informational meeting:
  - (1) The owner of the property if the owner is not the applicant;
  - (2) The municipality where the project is located and if the project is on the boundary of a municipality, the adjoining municipality;
  - (3) The municipal planning commission and regional planning commission for any municipality where the project is located;
  - (4) Any adjoining property owner; and
  - (5) The Secretary by way of the Office of Policy and Planning in the Agency of Natural Resources.
- (d) Contents of Notice. A notice required by subsection (c) of this section shall contain the same information as required by § 37-503(b), as applicable.
- (e) Notice to the Secretary. The applicant shall furnish a certification to the Secretary the names of those furnished notice and shall certify compliance with the notice requirements of this section.
- (f) Project scoping process. In lieu of conducting a pre-application public informational meeting, an applicant for a project subject to this section may initiate a project scoping process pursuant to 3 V.S.A. § 2828.

§ 37-510. ADDITIONAL NOTICE.

The Secretary may, on a case-by-case basis:

- (1) Require a project designated as Type 4 or Type 5 to follow the procedures for Type 2 notice.
- (2) Require any additional notice beyond that required by this rule using a method reasonably calculated to provide notice to persons potentially affected by the decision on an application. Such additional notice may

include extending deadlines for public comment and reopening a public comment period.

§ 37-511. EXTENSION OF DEADLINES.

A person may request that the Secretary extend any deadline for comment or requesting a public meeting established by this chapter. The person shall submit the request two business days before the relevant deadline and include an explanation of why the extension is justified. If the request is granted, the Secretary shall provide notice of the new deadline through the environmental notice bulletin.

§ 37-512. ADMINISTRATIVE RECORD.

- (a) The Secretary shall create an administrative record for each application for a permit and shall provide instructions to the public on how to obtain the administrative record.
- (b) The Secretary shall use the administrative record as the basis for each draft and final decision on each application received.

**APPENDIX A – ANR PERMITS AND PUBLIC NOTICE TYPE**

Public Notice Type	Type of Permit	PN Activity Name
Type 1	Air Quality Permits	Air Pollution Control Major Source Construction / Subchapter X Operating Permit
Type 1	Air Quality Permits	Air Pollution Control Major Source Construction / Title V Operating Permit
Type 1	Air Quality Permits	Air Pollution Control Major Source Construction Permit
Type 1	Air Quality Permits	Air Pollution Control Minor Source Construction / Title V Operating Permit
Type 1	Air Quality Permits	Air Pollution Control Title V Operating Permit
Type 1	Surface Water Permits -- Stormwater	Designated Discharges General Permit 3-9030
Type 1	Surface Water Permits -- Stormwater	Discharges From Medium Concentrated Animal Feeding Operations (CAFO) Stormwater General Permit 3-9100
Type 1	Surface Water Permits -- Stormwater	Multi-Sector General Permit (MSGP) 3-9003
Type 1	Surface Water Permits -- Stormwater	Municipal Separate Storm Sewer Systems (MS4) General Permit 3-9014
Type 1	Surface Water Permits -- Stormwater	Stormwater Runoff from Construction Sites General Permit (CGP) 3-9020
Type 1	Surface Water Permits -- Wastewater	Federal Pretreatment Individual Permit

Type 1	Surface Water Permits -- Wastewater	Wastewater Discharge Individual Permit
Type 1	Surface Water Permits --Lakes and Ponds	Pesticide General Permit
Type 2	Air Quality Permits	Air Pollution Control Minor Source Construction / Subchapter X Operating Permit
Type 2	Air Quality Permits	Air Pollution Control Minor Source Construction Permit
Type 2	Groundwater Permits -- Drinking Water	Groundwater Withdrawal Permit
Type 2	Groundwater Permits -- Drinking Water	Public Water System Source Permit - Site Notification
Type 2	Groundwater Permits -- Drinking Water	Public Water System Source Permit - SPA/Final Report/Draft Permit
Type 2	Groundwater Permits -- Indirect Discharge and UIC	Indirect Discharge Permit - Individual
Type 2	Groundwater Permits -- Indirect Discharge and UIC	Underground Injection Control (UIC) Permit
Type 2	Surface Water Permits -- Lakes and Ponds	Aquatic Nuisance Control Individual Permit
Type 2	Surface Water Permits -- Lakes and Ponds	Lake Encroachment Individual Permit
Type 2	Surface Water Permits -- Lakes and Ponds	Shoreland Protection Individual Permit



Type 2	Surface Water Permits -- Rivers	Flood Hazard Area and River Corridor Individual Permit
Type 2	Surface Water Permits -- Rivers	Stream Alteration Individual Permit
Type 2	Surface Water Permits – Stormwater	Individual Construction Stormwater Permit (INDC)
Type 2	Surface Water Permits – Stormwater	Individual Stormwater Discharge Offset Permit (INDO)
Type 2	Surface Water Permits – Stormwater	Individual Stormwater Discharge Permit
Type 2	Surface Water Permits -- Wetlands	Wetlands Determination
Type 2	Surface Water Permits -- Wetlands	Wetlands Individual Permit
Type 2	Waste Management Permits -- Salvage Yards	Salvage Yard Permit
Type 2	Waste Management Permits -- Sites Management	Corrective Action Plan
Type 2	Waste Management Permits -- Solid Waste Management	Large Composting Facility Certification
Type 2	Waste Management Permits -- Solid Waste Management	Solid Waste Facility Interim Certification
Type 2	Waste Management Permits -- Solid Waste Management	Solid Waste Facility Provisional Certification

Type 2	Waste Management Permits -- Solid Waste Management	Solid Waste Management Facility Certification
Type 3	Groundwater Permits -- Drinking Water	Public Water System Construction Permit - New Type of Chemical Disinfectant
Type 3	Groundwater Permits -- Indirect Discharge and UIC	Indirect Discharge General Permit
Type 3	Surface Water Permits -- Dams	Dam Order
Type 3	Surface Water Permits -- Rivers	Flood Hazard Area and River Corridor General Permit
Type 3	Surface Water Permits -- Rivers	Stream Alteration General Permit
Type 3	Surface Water Permits -- Stormwater	New Stormwater Discharges Stormwater General Permit 3-9015
Type 3	Surface Water Permits -- Stormwater	Previously Permitted Stormwater Discharges General Permit 3-9010
Type 3	Surface Water Permits -- Stormwater	TS-4 Municipal Roads General Permit
Type 3	Surface Water Permits -- Wastewater	General Permit 3-9004: Discharges to Surface Waters from Petroleum-related Remediation Activities
Type 3	Surface Water Permits -- Wastewater	General Permit 3-9016: Discharges from Petroleum-related Remediation Activities into Municipal Wastewater Treatment Facilities
Type 3	Surface Water Permits -- Wetlands	Wetlands General Permit

Type 3	Surface Water Permits --Lakes and Ponds	Aquatic Nuisance Control General Permit
Type 3	Waste Management Permits -- Solid Waste Management	Plan for Collection and Recycling of Electronic Waste; Individual
Type 3	Waste Management Permits -- Solid Waste Management	Plan for Collection of Mercury-Containing Lamps
Type 3	Waste Management Permits -- Solid Waste Management	Plan for Paint Stewardship
Type 3	Waste Management Permits -- Solid Waste Management	Plan for Primary Battery Stewardship
Type 3	Waste Management Permits -- Solid Waste Management	Plan for Solid Waste Implementation (SWIP)
Type 4	Air Quality Permits	Air Pollution Control Subchapter X Operating Permit
Type 4	Groundwater Permits -- Drinking Water	Authorization of Notice of Intent - Public Water System General Permit to Operate - Transient Non-Community
Type 4	Groundwater Permits -- Drinking Water	Approval to Sell Bottled Water in Vermont
Type 4	Groundwater Permits -- Drinking Water	Public Water System Construction Permit
Type 4	Groundwater Permits -- Indirect Discharge and UIC	Indirect Discharge Notice of Intent General Permit
Type 4	Surface Water Permits -- Lakes and Ponds	Aquatic Nuisance Control General Permit: Notice of Intent

Type 4	Surface Water Permits -- Lakes and Ponds	Pesticide General Permit-Authorization
Type 4	Surface Water Permits -- Rivers	Flood Hazard Area and River Corridor General Permit-Authorization
Type 4	Surface Water Permits -- Rivers	Stream Alteration General Permit-Authorization
Type 4	Surface Water Permits -- Stormwater	Designated Discharges General Permit 3-9030: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	Discharges from Medium Concentrated Animal Feeding Operations (CAFO) General Permit 3-9100: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	Multi-Sector General Permit (MSGP) 3-9003: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	Municipal Separate Storm Sewer System (MS4) 3-9014: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	New Stormwater Discharges General Permit 3-9015: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	Previously Permitted Stormwater Discharges General Permit 3-9010: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	Stormwater Runoff from Construction Sites General Permit (CGP) 3-9020: Notice of Intent
Type 4	Surface Water Permits -- Stormwater	TS-4 Municipal Roads General Permit: Notice of Intent
Type 4	Surface Water Permits -- Wastewater	General Permit 3-9004 Notice of Intent: Discharges to Surface Waters from Petroleum-related Remediation Activities

Type 4	Surface Water Permits -- Wastewater	General Permit 3-9016 Notice of Intent: Discharges from Petroleum-related Remediation Activities into Municipal Wastewater Treatment Facilities
Type 4	Surface Water Permits -- Wetlands	Wetlands General Permit Authorization
Type 4	Waste Management Permits -- Solid Waste Management	Categorical Mining Waste Certification
Type 4	Waste Management Permits -- Solid Waste Management	Categorical Solid Waste Certification
Type 4	Waste Management Permits -- Solid Waste Management	Insignificant Waste Management Event Approval
Type 4	Waste Management Permits -- Solid Waste Management	Medium Composting Facility Certification
Type 4	Waste Management Permits -- Underground Storage Tanks	Category 1 Underground Storage Tank - New Construction
Type 4	Waste Management Permits -- Underground Storage Tanks	Category 1 Underground Storage Tank - Operating Renewal
Type 5	Groundwater Permits -- Drinking Water	Public Water System General Permit to Operate - Transient Non-Community
Type 5	Groundwater Permits -- Drinking Water	Public Water System Individual Permit to Operate
Type 5	Groundwater Permits -- Drinking Water	Public Water System- Emergency Construction Permit
Type 5	Surface Water Permits -- Lakes and Ponds	Shoreland Project Registration

Type 5	Surface Water Permits -- Rivers	Flood Hazard Area River Corridor Registration
Type 5	Surface Water Permits -- Rivers	Stream Alteration General Permit Emergency Protective Measure
Type 5	Surface Water Permits -- Rivers	Stream Alteration General Permit Next Flood Measure
Type 5	Surface Water Permits -- Rivers	Stream Alteration General Permit Registration
Type 5	Surface Water Permits -- Rivers	Stream Alteration Mineral Prospecting
Type 5	Surface Water Permits -- Wastewater	Emergency Pollution Permit
Type 5	Waste Management Permits -- Hazardous Waste	Temporary Haz Waste Emergency Certification
Type 5	Waste Management Permits -- Solid Waste Management	Compost Facility Registration
Type 5	Waste Management Permits -- Solid Waste Management	Emergency Sludge and Septage Diposal Approval
Type 5	Waste Management Permits -- Underground Storage Tanks	Category 1 Underground Storage Tank - Emergency Permit

## **APPENDIX B – LARGE AND COMPLEX PROJECTS**

When any trigger for a large and complex project occurs, the whole project shall be subject to the requirements of § 37-509. An application for a permit containing any of the following shall be a trigger for a project being large and complex:

- (1) Air construction permits that meet or exceed federal major source levels (50 tons per year for volatile organic compounds; 100 tons per year for nitrogen oxide; and 250 tons per year for particulate matter, sulfur dioxide; or carbon monoxide).
- (2) A construction stormwater permit where the total earth disturbance is greater than 50 acres. This shall not include the redevelopment or expansion of linear transportation projects.
- (3) An operational stormwater permit where the total new impervious surface is greater than 15 acres. This shall not include the redevelopment or expansion of linear transportation projects.
- (4) A wetland permit that impacts ten or more significant wetlands or their buffers.
- (5) A wetlands permit that authorizes wetland impacts greater than one acre.
- (6) A new wastewater treatment facility.
- (7) Any new significant industrial direct discharge.
- (8) The expansion of any direct discharge with an increase in design flow greater than 25 percent.
- (9) An in-lake management project designed to alter the water chemistry of a waterbody.
- (10) An aquatic nuisance control permit for the application of a chemical that is not a pesticide in a water of the State. This shall not include private ponds.
- (11) A new or the lateral expansion of an existing solid waste landfill.
- (12) A new municipal solid waste incineration or gasification facility.