

AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
S.10
TECHNICAL CHANGES TO ADDRESSING CONTAMINATED SITES
March 29, 2017

Sec. 1. 10 V.S.A. § 1392(d) is amended to read:

(d) The groundwater management strategy, including groundwater classification and associated technical criteria and standards, shall be adopted as a rule in accordance with the provisions of 3 V.S.A., chapter 25. ~~The secretary shall file any final proposed rules regarding the groundwater management strategy, with the natural resources board not less than 30 days prior to filing with the legislative committee on administrative rules. The board shall review the final proposed rules and comment regarding their compatibility with the Vermont water quality standards and the objectives of the Vermont Water Pollution Control Act. The secretary shall include the natural resources board's comments in filing the final proposed rules with the legislative committee on administrative rules.~~

Sec. 2. 10 V.S.A. § 1394 is amended to read:

§ 1394. CLASSIFICATION OF GROUNDWATER

(a) The state adopts, for purposes of classifying its groundwater, the following classes and definitions thereof:

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(4) Class IV. Not suitable for uses identified in the reclassification order for the aquifer as a source of potable water but suitable for some agricultural, industrial and commercial use.

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Sec. 3. 10 V.S.A. § 6002(16) is amended to read:

(16)(A) "Hazardous material" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(i) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(ii) petroleum, including crude oil or any fraction thereof; ~~or~~

(iii) hazardous wastes, as determined under subdivision (4) of this section; ~~or~~ or

(iv) a waste that, when released, poses a risk to human health or other living organisms and which is listed by the Secretary by rule.

(B) "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, State, and local laws and regulations and according to manufacturer's instructions. Nothing in this subdivision shall affect the authority granted and the limitations imposed by section 6608a of this title.

Sec. 4. 10 V.S.A. § 6652(b) is amended to read:

(b) Upon receipt of the completion report, the Secretary shall determine whether additional work is required in order to complete the plan. The applicant shall perform any additional activities necessary to complete the corrective action plan as required by the Secretary and shall submit a new completion report. When the Secretary determines that the applicant has successfully completed the corrective action plan and paid all fees and costs due under this subchapter, the Secretary shall issue a certificate of completion, which certifies that the work is completed. The certificate of completion shall include a description of any land use restrictions and other conditions required by the corrective action plan. If the Secretary establishes land use restrictions in the certificate of completion, the Secretary shall not obtain a less than fee simple interest restricting uses on the property.

Sec. 5. 10 V.S.A. § 6653 is amended to read:

§ 6653. RELEASE FROM LIABILITY; PERSONAL RELEASE FROM LIABILITY

(a) An applicant who has obtained a certificate of completion pursuant to section 6652 of this title and successor owners of the property included in the certificate of completion who are not otherwise liable under section 6615 for the release or threatened release of a hazardous material at the property shall not be liable under subdivision 6615(a)(1) of this title for any of the following:

(1) A release or threatened release that existed at the property at the time of the approval of the corrective action plan and complies with one or both of the following:

(A) was discovered after the approval of the corrective action plan by means that were not recognized standard methods at the time of approval of the corrective action plan;

(B) the material was not regulated as hazardous material until after approval of the corrective action plan.

(2) Cleanup after approval of the corrective action plan was done pursuant to more stringent cleanup standards effective after approval of the corrective action plan.

(3) Natural resource damages pursuant to section 6615d of this title, provided the applicant did not cause the release that resulted in the damages to natural resources.

* * *

(c) A release from liability under this section or forbearance from action provided by section 6646 of this title does not extend to any of the following:

(1) A release or threatened release of a hazardous material that was not present at the time the applicant submitted an application pursuant to this subchapter where the release or threatened release:

(A) has not been addressed under an amended corrective action plan approved by the Secretary;

or

(B) was caused by intentional or reckless conduct by the applicant or agents of the applicant.

(2) Failure to comply with the general obligations established in section 6644 of this title.

(3) A release that occurs subsequent to the issuance of a certificate of completion.

(4) Failure to comply with the use restrictions contained within the certificate of completion for the site issued pursuant to section 6652(b) of this title

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