

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 554 entitled “An act relating to the regulation of dams”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 * * * Regulation of Dams * * *

8 Sec. 1. 10 V.S.A. chapter 43 is amended to read:

9 CHAPTER 43. DAMS

10 § 1079. PURPOSE

11 It is the purpose of this chapter to protect public safety and provide for the
12 public good through the inventory, inspection, and evaluation of dams in the
13 State.

14 § 1080. DEFINITIONS

15 As used in this chapter:

16 (1) “Department” means the ~~department of environmental conservation~~
17 Department of Environmental Conservation.

18 (2) “Person” means any individual; partnership; company; corporation;
19 association; joint venture; trust; municipality; the ~~state~~ State of Vermont or any
20 agency, department, or subdivision of the ~~state~~, State; any federal agency; or
21 any other legal or commercial entity.

1 (3) ~~“Person in interest”~~ “Interested person” means, in relation to any
2 dam, a person; who has riparian rights affected by that dam; who has a
3 substantial interest in economic or recreational activity affected by the dam; or
4 whose safety would be endangered by a failure of the dam.

5 (4) “Engineer” means a professional engineer ~~registered~~ licensed under
6 Title 26 who has experience in the design and investigation of dams.

7 (5) “Time” shall be reckoned in the manner prescribed by 1 V.S.A.
8 § 138.

9 (6)(A) “Dam” means any artificial barrier, including its appurtenant
10 works, that is capable of impounding water, other liquids, or accumulated
11 sediments.

12 (B) “Dam” includes an artificial barrier that meets all of the
13 following:

14 (i) previously was capable of impounding water, other liquids, or
15 accumulated sediments;

16 (ii) was partially breached; and

17 (iii) has not been properly removed or mitigated.

18 (C) “Dam” shall not mean:

19 (i) barriers or structures created by beaver or any other wild
20 animal as that term is defined in section 4001 of this title;

1 (ii) transportation infrastructure that has no normal water storage
2 capacity and that impounds water only during storm events;

3 (iii) an artificial barrier at a stormwater management structure that
4 is regulated by the Agency of Natural Resources under chapter 47 of this title;

5 (iv) an underground or elevated tank to store water otherwise
6 regulated by the Agency of Natural Resources;

7 (v) an agricultural waste storage facility regulated by the Agency
8 of Agriculture, Food and Markets under 6 V.S.A. chapter 215; or

9 (vi) any other structure identified by the Department by rule.

10 (7) “Federal dam” means:

11 (A) a dam owned by the United States; or

12 (B) a dam subject to a Federal Energy Regulatory Commission
13 license or exemption.

14 (8) “Intake structure” means a dam that is constructed and operated for
15 the primary purposes of minimally impounding water for the measurement and
16 withdrawal of streamflow to ensure use of the withdrawn water for
17 snowmaking, potable water, irrigation, or other purposes approved by the
18 Department.

19 (9) “Nonfederal dam” means a dam that is not a federal dam.

1 § 1081. JURISDICTION OF DEPARTMENT AND PUBLIC UTILITY

2 COMMISSION

3 (a) Powers and duties. Unless otherwise provided, the powers and duties
4 authorized by this chapter shall be exercised by the Department, except that the
5 Public Utility Commission shall exercise those powers and duties over
6 nonfederal dams and projects that relate to or are incident to the generation of
7 electric energy for public use or as a part of a public utility system.

8 (b) Transfer of jurisdiction. Jurisdiction over a nonfederal dam is
9 transferred from the Department to the Public Utility Commission whenever
10 the Federal Energy Regulatory Commission grants a license to generate
11 electricity at the dam or whenever when the Public Utility Commission
12 receives an application for a certificate of public good for electricity generation
13 at that dam. Jurisdiction is transferred from the Public Utility Commission to
14 the Department whenever such a federal license when the license or exemption
15 for a federal dam expires or is otherwise lost, whenever such; when a
16 certificate of public good is revoked or otherwise lost,; or whenever when the
17 Public Utility Commission denies an application for a certificate of public
18 good.

19 (c) Transfer of records. Upon transfer of jurisdiction as set forth in
20 subsection (b) of this section and upon written request, the State agency having

1 former jurisdiction over a dam shall transfer copies of all records pertaining to
2 the dam to the agency acquiring jurisdiction.

3 § 1082. AUTHORIZATION

4 (a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or
5 otherwise alter any nonfederal dam, pond, or impoundment or other structure
6 ~~which~~ that is or will be capable of impounding more than 500,000 cubic feet of
7 water or other liquid after construction or alteration, or remove, breach, or
8 otherwise lessen the capacity of an existing nonfederal dam that is or was
9 capable of impounding more than 500,000 cubic feet within or along the
10 borders of this ~~state~~ State where land in this ~~state~~ State is proposed to be
11 overflowed, or at the outlet of any body of water within this ~~state~~ State, unless
12 authorized by the ~~state~~ State agency having jurisdiction so to do. However, in
13 the matter of flood control projects where cooperation with the federal
14 government is provided for by the provisions of section 1100 of this title, that
15 section shall control.

16 (b) For the purposes of this chapter, the volume a dam or other structure is
17 capable of impounding is the volume of water or other liquid, including any
18 accumulated sediments, controlled by the structure with the water or liquid
19 level at the top of the lowest nonoverflow part of the structure.

1 § 1083. APPLICATION

2 (a) Any person who proposes to undertake an action subject to regulation
3 pursuant to section 1082 of this title shall apply in writing to the State agency
4 having jurisdiction. The application shall set forth:

5 (1) the location, the height, length, and other dimensions; and any
6 proposed changes to any existing dam;

7 (2) the approximate area to be overflowed and the approximate number
8 of, or any change in the number of cubic feet of water to be impounded;

9 (3) the plans and specifications to be followed in the construction,
10 remodeling, reconstruction, altering, lowering, raising, removal, breaching, or
11 adding to;

12 (4) any change in operation and maintenance procedures; and

13 (5) other information that the ~~state~~ State agency having jurisdiction
14 considers necessary to ~~properly~~ review the application.

15 (b) The plans and specifications shall be prepared under the supervision of
16 an engineer.

17 § 1083a. ~~AGRICULTURAL DAMS~~

18 ~~(a) Notwithstanding the provisions of sections 1082, 1083, 1084, and 1086~~
19 ~~of this title, the owners of an agricultural enterprise who propose, as an integral~~
20 ~~and exclusive part of the enterprise, to construct or alter any dam, pond or~~
21 ~~impoundment or other structure requiring a permit under section 1083 shall~~

1 ~~apply to the natural resources conservation district in which his land is located.~~
2 ~~The natural resources conservation districts created under the provisions of~~
3 ~~chapter 31 of this title shall be the state agency having jurisdiction and shall~~
4 ~~review and approve the applications in the same manner as would the~~
5 ~~department. The districts may request the assistance of the department for any~~
6 ~~investigatory work necessary for a determination of public good and for any~~
7 ~~review of plans and specifications as provided in section 1086.~~

8 ~~(b) As used in this section, “agricultural enterprise” means any farm,~~
9 ~~including stock, dairy, poultry, forage crop and truck farms, plantations,~~
10 ~~ranches and orchards, which does not fall within the definition of “activities~~
11 ~~not engaged in for a profit” as defined in Section 183 of the Internal Revenue~~
12 ~~Code and regulations relating thereto. The growing of timber does not in itself~~
13 ~~constitute farming.~~

14 ~~(c) Notwithstanding the provisions of this section, jurisdiction shall revert~~
15 ~~to the department when there is a change in use or when there is a change in~~
16 ~~ownership which affects use. In those cases the department may, on its own~~
17 ~~motion, hold meetings in order to determine the effect on the public good and~~
18 ~~public safety. The department may issue an order modifying the terms and~~
19 ~~conditions of approval.~~

1 ~~(d) The natural resources conservation districts may adopt any rules~~
2 ~~necessary to administer this chapter. The districts shall adhere to the~~
3 ~~requirements of chapter 25 of Title 3 in the adoption of those rules.~~

4 ~~(e) Notwithstanding the provisions of chapter 7 of Title 3, the attorney~~
5 ~~general shall counsel the districts in any case where a suit has been instituted~~
6 ~~against the districts for any decision made under the provisions of this chapter.~~

7 [Repealed.]

8 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

9 ~~The commissioner of fish and wildlife~~ Commissioner of Fish and Wildlife
10 shall investigate the potential effects on fish and wildlife habitats of any
11 proposal subject to section 1082 of this title and shall certify the results to the
12 ~~state~~ State agency having jurisdiction prior to any hearing or meeting relating
13 to the determination of public good and public safety.

14 § 1085. NOTICE OF APPLICATION

15 Upon receipt of the application required by section 1082 of this title, the
16 State agency having jurisdiction shall give notice to the legislative body of
17 each municipality in which the dam is ~~allocated~~ located and to all ~~persons~~
18 interested persons.

19 (1) The Department shall proceed in accordance with chapter 170 of this
20 title.

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

11 § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

12 (a) “Public good” means the greatest benefit of the people of the State. In
13 determining whether the public good is served, the State agency having
14 jurisdiction shall give due consideration to, among other things, ~~to~~ the effect
15 the proposed project will have on:

16 (1) the quantity, kind, and extent of cultivated agricultural land that may
17 be rendered unfit for use by or enhanced by the project, including both the
18 immediate and long-range agricultural land use impacts;

19 (2) scenic and recreational values;

20 (3) fish and wildlife;

21 (4) forests and forest programs;

1 (5) ~~the need for a minimum water discharge flow rate schedule to~~
2 ~~protect the natural rate of flow and the water quality of the affected waters;~~

3 [Repealed.]

4 (6) the existing uses of the waters by the public for boating, fishing,
5 swimming, and other recreational uses;

6 (7) the creation of any hazard to navigation, fishing, swimming, or other
7 public uses;

8 (8) the need for cutting clean and removal of all timber or tree growth
9 from all or part of the flowage area;

10 (9) the creation of any public benefits;

11 (10) ~~the classification, if any, of the affected waters under chapter 47 of~~
12 ~~this title~~ attainment of the Vermont water quality standards;

13 (11) any applicable State, regional, or municipal plans;

14 (12) municipal grand lists and revenues;

15 (13) public safety; and

16 (14) in the case of the proposed removal of a dam that formerly related
17 to or was incident to the generation of electric energy, but ~~which~~ that was not
18 subject to a memorandum of understanding dated prior to January 1, 2006
19 relating to its removal, the potential for and value of future power production.

20 (b) If the State agency having jurisdiction finds that the proposed project
21 proposed under section 1082 of this title will serve the public good, and, in

1 case of any waters designated by the Secretary as outstanding resource waters,
2 will preserve or enhance the values and activities sought to be protected by
3 designation, the agency shall issue its order approving the application. The
4 order shall include conditions for ~~minimum stream flow to protect fish and~~
5 ~~instream aquatic life~~ attainment of water quality standards, as determined by
6 the Agency of Natural Resources, and such other conditions as the agency
7 having jurisdiction considers necessary to protect any element of the public
8 good listed in subsection (a) of this section. Otherwise it shall issue its order
9 disapproving the application.

10 (c) The ~~Agency~~ State agency having jurisdiction shall provide the applicant
11 and interested ~~parties~~ persons with copies of its order.

12 (d) In the case of a proposed removal of a dam that is under the jurisdiction
13 of the Department and that formerly related to or was incident to the generation
14 of electric energy but that was not subject to a memorandum of understanding
15 dated before January 1, 2006 relating to its removal, the Department shall
16 consult with the Department of Public Service regarding the potential for and
17 value of future power production at the site.

18 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

19 ~~Upon receipt of an application, the state~~ For any proposal subject to
20 authorization under section 1082, the State agency having jurisdiction shall
21 employ a ~~registered~~ an engineer ~~experienced in the design and investigation of~~

1 ~~dam~~s to investigate the property, review the plans and specifications, and make
2 additional investigations as ~~it~~ the State agency having jurisdiction considers
3 necessary to ensure that the project adequately provides for the public safety.

4 The engineer shall report his or her findings to the ~~agency~~ State agency having
5 jurisdiction.

6 § 1089. EMPLOYMENT OF ~~HYDRAULIC~~ ENGINEER

7 With the approval of the ~~governor~~ Governor, the ~~state~~ State agency having
8 jurisdiction may employ a ~~competent hydraulic~~ an engineer to investigate the
9 property, review the plans and specifications, and make such additional
10 investigation as ~~such~~ the State agency shall deem necessary, and such engineer
11 shall report to the State agency his or her findings in respect thereto.

12 § 1090. CONSTRUCTION SUPERVISION

13 The construction, alteration, or other action authorized in section 1086 of
14 this title shall be supervised by a ~~registered~~ an engineer employed by the
15 applicant. Upon completion of the authorized project, the engineer shall
16 certify to the agency having jurisdiction that the project has been completed in
17 conformance with the approved plans and specifications.

18 § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

19 (a) On receipt of a petition signed by ~~not less~~ no fewer than ten ~~persons in~~
20 ~~interest~~ interested persons or the legislative body of a municipality, the State
21 agency having jurisdiction shall, or upon its own motion it may, institute

1 investigations by an engineer as described in section 1087 of this title
2 regarding the safety of any existing nonfederal dam or portion of a the dam, of
3 any size. The agency may fix a time and place for hearing and shall give
4 notice in the manner it directs to all ~~parties~~ interested persons. The engineer
5 shall present his or her findings and recommendations at the hearing. After the
6 hearing, if the agency finds that the nonfederal dam or portion of the dam as
7 maintained or operated is unsafe or is a menace to people or property above or
8 below the dam, it shall issue an order directing reconstruction, repair, removal,
9 breaching, draining, or other action it considers necessary to ~~make the dam~~
10 safe improve the safety of the dam sufficiently to protect life and property as
11 required by the State agency having jurisdiction.

12 (b) If, upon the expiration of such date as may be ordered, the ~~owner of~~
13 person owning legal title to such dam or the owner of the land on which the
14 dam is located has not complied with the order directing the reconstruction,
15 repair, breaching, removal, draining, or other action of such unsafe dam, the
16 ~~state~~ State agency having jurisdiction may petition the ~~superior court~~ Superior
17 Court in the county in which the dam is located to enforce its order or exercise
18 the right of eminent domain to acquire ~~such the~~ rights as that may be necessary
19 to effectuate a remedy as the public safety or public good may require. If the
20 order has been appealed, the court may prohibit the exercise of eminent

1 domain by the State agency having jurisdiction pending disposition of the
2 appeal.

3 (c) If, upon completion of the investigation described in subsection (a) of
4 this section, the ~~state~~ State agency having jurisdiction considers the dam to
5 present an imminent threat to human life or property, it shall take whatever
6 action it considers necessary to protect life and property and subsequently shall
7 conduct the hearing described in subsection (a) of this section.

8 § 1097. ~~SURVEY OF EXISTING DAMS; ORDERS FOR PROTECTION OF~~
9 ~~SALMON~~

10 ~~The Fish and Wildlife Board shall forthwith make a survey of all dams~~
11 ~~within the state which impound more than three hundred thousand cubic feet of~~
12 ~~water and determine if the operation of such dams adversely affects the~~
13 ~~propagation and preservation of salmon, or materially diminishes the amount~~
14 ~~of flow in portions of a stream likely to be used for such preservation and~~
15 ~~propagation of salmon. If the Board determines that the operation of an~~
16 ~~existing dam does adversely affect the propagation and preservation of salmon~~
17 ~~or materially diminishes the flow of water over portions of stream likely to be~~
18 ~~used therefor, it shall order such changes in operation for such length of time~~
19 ~~or times as are reasonably necessary in its judgment to fully protect such~~
20 ~~preservation and propagation of salmon. Any order of the board made under~~
21 ~~this section shall be based upon facts found and stated. Appeal from an order~~

1 of the board may be taken in the manner prescribed for appeals from the Public
2 Utility Commission as provided in 30 V.S.A. chapter 1. [Repealed.]

3 § 1098. ~~REMOVAL OF OBSTRUCTIONS; APPROPRIATION~~

4 ~~The department may contract for the removal of sandbars, debris, or other~~
5 ~~obstructions from streams which the department finds that while so obstructed~~
6 ~~may be a menace in time of flood, or endanger property or life below, or the~~
7 ~~property of riparian owners. The expense of investigation and removal of the~~
8 ~~obstruction shall be paid by the state from funds provided for that purpose.~~

9 [Repealed.]

10 * * *

11 § 1105. INSPECTION OF DAMS

12 (a) Inspection; schedule. All nonfederal dams in the State shall be
13 inspected according to a schedule adopted by rule by the State agency having
14 jurisdiction over the dam.

15 (b) Dam inspection. A nonfederal dam in the State shall be inspected under
16 one or both of the following methods:

17 (1) The State agency having jurisdiction ~~shall~~ over a dam may employ
18 an engineer to make periodic inspections of nonfederal dams in the State to
19 determine their condition and the extent, if any, to which they pose a ~~potential~~
20 ~~possible~~ or ~~actual~~ probable threat to life and property, ~~or.~~

1 § 1108. DAM INVENTORY; REGISTRATION

2 (a) Dam inventory. The Department of Environmental Conservation shall
3 maintain a current inventory of all known dams in the State of Vermont. The
4 Department of Environmental Conservation shall update and publish the
5 Vermont Dam Inventory annually and shall include information collected in
6 the Inventory as part of the Agency of Natural Resources' Natural Resources
7 Atlas.

8 (b) Dam registration. If a dam is listed on the Vermont Dam Inventory and
9 is under the jurisdiction of the Department, the person owning legal title to a
10 dam or the person owning the land on which the dam is located shall, upon
11 request of the Department, submit information to the Department regarding the
12 dam, including the condition of the dam, whether and when the dam has been
13 inspected, and any other information that the Department may require to
14 ensure public safety. A person who fails to comply with the request of the
15 Department under this section shall be subject to a civil penalty under chapter
16 201 of this title.

17 § 1109. MARKETABILITY OF TITLE

18 The failure of the person owning legal title to a dam or the owner of the
19 land on which the dam is located to record a dam registration or a dam
20 inspection report when required under this chapter or rules adopted under this
21 chapter shall not create an encumbrance on record title or an effect on

1 marketability of title for the real estate property or properties on which the dam
2 is located.

3 § 1110. RULEMAKING

4 The Commissioner of Environmental Conservation shall adopt rules to
5 implement the requirements of this chapter for dams under the jurisdiction of
6 the Department. The rules shall include:

7 (1) a standard or regulatory threshold under which a dam is exempt from
8 the registration or inspection requirements of this chapter;

9 (2) standards for:

10 (A) the siting, design, construction, reconstruction, enlargement,
11 modification, or alteration of a dam;

12 (B) operation and maintenance of a dam;

13 (C) inspection, monitoring, record keeping, and reporting;

14 (D) repair, breach, or removal of a dam;

15 (E) application for authorization under section 1082 of this title; and

16 (F) for the development of an emergency action plan for a dam,
17 including guidance on how to develop an emergency action plan, the content of
18 a plan, and when and how an emergency action plan should be updated;

19 (3) criteria for the hazard potential classification of dams in the State;

1 (4) a process by which a person owning legal title to a dam or a person
2 owning the land on which the dam is located shall register a dam and record
3 the existence of the dam in the lands records;

4 (5) requirements for the person owning legal title to a dam or the
5 person owning the land on which the dam is located to conduct inspections of
6 the dam; and

7 (6) a rebuttable presumption of compliance with this chapter for an
8 intake structure in existence on July 1, 2018, that continues to operate in
9 accordance with a valid Department permit or approval that contains
10 requirements for inspection and maintenance subject to section 1105 of this
11 title, provided that no presumption of compliance shall apply if one or both of
12 the following occur on or after July 1, 2018:

13 (A) the owner or operator of the intake takes an action that requires
14 authorization under 1082 of this title; or

15 (B) the Department issues an order under 1085 of this title directing
16 reconstruction, repair, removal, breaching, draining, or other action it considers
17 necessary to improve the safety of the dam.

18 § 1111. NATURAL RESOURCES ATLAS; DAM STATUS

19 Annually on or before January 1, the Public Utility Commission shall
20 submit to the Department updated inventory information from the previous
21 calendar year for dams under the jurisdiction of the Public Utility Commission.

1 Sec. 2. DAM REGISTRATION PROGRAM REPORT

2 On or before January 1, 2023, the Department of Environmental
3 Conservation shall submit a report to the House Committees on Natural
4 Resources, Fish, and Wildlife and on Ways and Means and the Senate
5 Committees on Natural Resources and Energy and on Finance. The report
6 shall contain:

7 (1) an evaluation of the dam registration program under 10 V.S.A.
8 chapter 43;

9 (2) a recommendation on whether to modify the fee structure of the dam
10 registration program;

11 (3) a summary of the dams registered under the program, organized by
12 amount of water impounded and hazard potential classification; and

13 (4) an evaluation of any other dam safety concerns related to dam
14 registration.

15 Sec. 3. ADOPTION OF RULES

16 The Secretary of Natural Resources shall adopt the rules required under
17 10 V.S.A. § 1110 as follows:

18 (1) the rules required under 10 V.S.A. § 1110(1) (exemptions),
19 § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification),
20 § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted
21 on or before July 1, 2020; and

1 (2) the rules required under 10 V.S.A. § 1110(2) (dam design standards)
2 shall be adopted on or before July 1, 2022.

3 * * * Groundwater Source Testing * * *

4 Sec. 4. 10 V.S.A. § 1982 is added to read:

5 § 1982. TESTING OF GROUNDWATER SOURCES

6 (a) Definition. As used in this section, “groundwater source” means that
7 portion of a potable water supply that draws water from the ground, including
8 a drilled well, shallow well, driven well point, or spring.

9 (b) Testing prior to new use. Prior to use of a new groundwater source as a
10 potable water supply, the person who owns or controls the groundwater source
11 shall test the groundwater source for the parameters set forth in subsection (c)
12 of this section.

13 (c) Parameters of testing. A water sample collected under this section shall
14 be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation,
15 total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any
16 other parameters required by the Agency by rule. The Agency by rule may
17 require testing for a parameter by region or specific geographic area of
18 concern.

19 (d) Submission of test results. Results of the testing required under
20 subsection (b) shall be submitted, on a form provided by the Department of

1 Health, to the Department of Health and, when required by the Secretary
2 pursuant to a permit, to the Secretary.

3 (e) Rulemaking. The Secretary, after consultation with the Department of
4 Health, the Wastewater and Potable Water Supply Technical Advisory
5 Committee, private laboratories, and other interested parties, shall adopt by
6 rule requirements regarding:

7 (1) when, prior to use of a new groundwater source, the test required
8 under subsection (b) of this section shall be conducted;

9 (2) who shall be authorized to sample the source for the test required
10 under subsections (b) and (c) of this section, provided that the rule shall
11 include the person who owns or controls the groundwater source and licensed
12 well drillers among those authorized to sample the source;

13 (3) how a water sample shall be collected in order to comply with the
14 requirements of the analyses to be performed; and

15 (4) any other requirements necessary to implement this section.

16 (f) Marketability of title. Noncompliance with the requirements of this
17 section shall not affect the marketability of title or create a defect in title of a
18 property, provided water test results required under this section are forwarded,
19 prior to the conveyance of the property, to the Department of Health and, when
20 required by the Secretary pursuant to a permit, to the Agency.

1 Sec. 5. AGENCY OF NATURAL RESOURCES; GROUNDWATER
2 SOURCE TESTING; RULEMAKING

3 The Secretary of Natural Resources shall commence rulemaking under
4 10 V.S.A. § 1982 on or before July 1, 2018. The Secretary shall adopt rules
5 under 10 V.S.A. § 1982 on or before January 1, 2019.

6 Sec. 6. 18 V.S.A. § 501b is amended to read:

7 § 501b. CERTIFICATION OF LABORATORIES

8 (a) The ~~commissioner~~ Commissioner may certify a laboratory that meets
9 the standards currently in effect of the National Environmental Laboratory
10 Accreditation Conference and is accredited by an approved National
11 Environmental Laboratory Accreditation Program accrediting authority or its
12 equivalent to perform the testing and monitoring:

13 (1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking
14 Water Act; and

15 (2) of water from a potable water supply, as that term is defined in
16 10 V.S.A. § 1972(6).

17 (b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a
18 certificate granted under this section, after notice and opportunity to be heard,
19 if the ~~commissioner~~ Commissioner finds that the certificate holder has:

20 (A) submitted materially false or materially inaccurate
21 information; or

1 (B) violated any material requirement, restriction, or condition of the
2 certificate; or

3 (C) violated any statute, rule, or order relating to this title.

4 (2) The order shall set forth what steps, if any, may be taken by the
5 certificate holder to relieve the holder of the suspension or enable the
6 certificate holder to reapply for certification if a previous certificate has been
7 revoked.

8 (c) A person may appeal the suspension or revocation of the certificate to
9 the ~~board~~ Board under section 128 of this title.

10 * * *

11 (f) A laboratory certified to conduct testing of groundwater sources or
12 water supplies ~~from~~ for use by a potable water supply, as that term is defined
13 in 10 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982,
14 shall submit the results of groundwater analyses to the ~~department of health~~
15 ~~and the agency of natural resources~~ Department of Health in a format required
16 by the ~~department of health~~ Department of Health.

17 Sec. 7. 10 V.S.A. § 1974 is amended to read:

18 § 1974. EXEMPTIONS

19 Notwithstanding any other requirements of this chapter, the following
20 projects and actions are exempt:

21 * * *

